

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
 325 West F Street, San Diego, California 92101-6991

(619) 557-5620

FAX: (619) 557-5536

TRANSMITTAL MEMORANDUM**FILED**

AUG 11 2008

 CLERK, U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 BY *[Signature]* DEPUTY

To: UNITED STATES DISTRICT COURT
 880 Front Street, Suite 4290
 San Diego, California 92101

'08 CV 1446-BTM-BLM

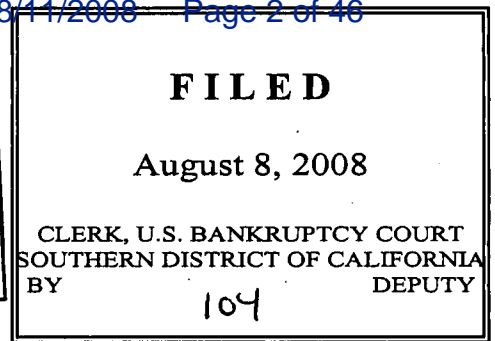
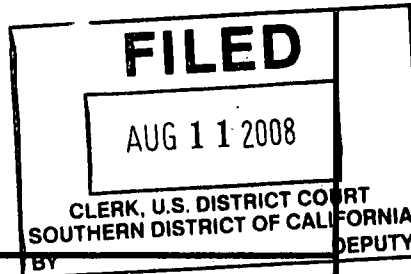
From: BARRY K. LANDER, Clerk District/Office No. 974-3

CASE NAME Jerry Lee Icenhower and Donna Lee Icenhower		BANKRUPTCY NO. 03-11155-LA7	
		ADVERSARY NO. 04-90392-LA7	
		APPEAL NO. 2	
		BANKRUPTCY JUDGE Louise DeCarl Adler	
		DATE BANKRUPTCY FILED 12/15/03	
DATE OF ENTRY OF APPEALED ORDER: 6/2/08, 6/2/08, 7/30/08 (3 Orders)	NOTICE OF APPEAL FILED ON: 8/6/08	FEE PAID: YES	NOTICE OF REFERRAL TO USDC MAILED ON: August 8, 2008

DATED: August 8, 2008

Barry K. Lander, Clerk

By: *[Signature]* Deputy Clerk
 Jillmarie McGrew



UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA 325 West "F" Street, San Diego, California 92101-6991	
In Re Jerry Lee Icenhower Donna Lee Icenhower Debtor.	BANKRUPTCY NO. 03-11155-LA7
Martha Margarita Barba de la Torre, Alejandro Diaz-Barba (Appellants) Plaintiff(s)	ADVERSARY NO. 04-90392-LA7
v. Kismet Acquisition LLC (Appellee) Defendant(s)	BK APPEAL NO. 2 ASSIGNED TO JUDGE Louise DeCarl Adler

'08 CV 1446-BTM-BLM

**NOTICE OF REFERRAL OF APPEAL TO UNITED STATES DISTRICT COURT
COMBINED WITH SERVICE OF NOTICE OF APPEAL**

TO: Geraldine A. Valdez, Procopio Cory Hargreaves & Savitch LLP, 530 B Street, Suite 2100, San Diego CA 92101
 Stephen B. Morris, Esq., Morris & Associates, 444 West C Street, Suite 200, San Diego CA 92101
 Ali M.M. Mojdehi, Esq., Baker & McKenzie LLP, 12544 High Bluff Drive, Suite 300, San Diego CA 92130
 D. Anthony Gaston, Attorney at Law, Corporate Center, 550 West C Street, Suite 700, San Diego CA 92101
 United States Trustee, Dept. of Justice, 402 W. Broadway, Ste. 600, San Diego, CA 92101

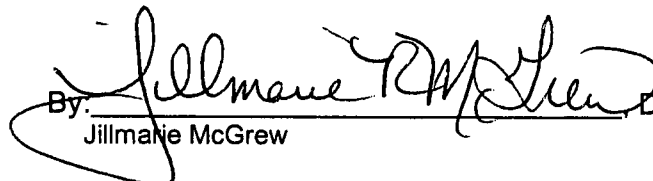
NOTICE IS HEREBY GIVEN that a Notice of Appeal has been filed by Martha Margarita Barba de la Torre, Alejandro Diaz-Barba with the Clerk of the Bankruptcy Court. By virtue of orders of the Judicial Council of the Ninth Circuit and the District Court for this district, the above appeal has been referred to the United States District Court for the Southern District of California.

For further information, you may contact the Clerk of the United States District Court at 880 Front Street, Suite 4290, San Diego, California 92101 or by calling (619) 557-5600.

I hereby certify that on this date copies of the Notice of Appeal and the within Notice of Referral were mailed to the above-named person(s).

DATED: August 8, 2008

Barry K. Lander, Clerk

By:  Deputy Clerk
 Jillmarie McGrew

E-Filed 8/16/08

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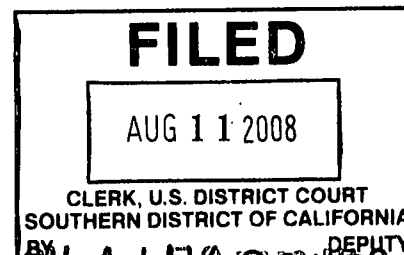
Attorneys for Defendants Alejandro Diaz-
Barba and Martha Margarita Barba de la Torre

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Attorneys for Defendant
Martha Margarita Barba de la Torre



UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In re:

JERRY LEE ICENHOWER dba Seaview
Properties, and DONNA LEE ICENHOWER,

Debtors

KISMET ACQUISITION, LLC,

Plaintiff,

v.

JERRY L. ICENHOWER; et al.,

Defendants.

Case No. 03-11155-LA7

Chapter 7

Adv. Proc. No.: 06-90369

Adv. Proc. No.: 04-90392

NOTICE OF APPEAL

Date: None Set

Time: None Set

Dept: Two

Judge: Hon. Louise DeCarl Adler

TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT Defendants Martha Margarita Barba de la Torre, aka
Martha Barba de Diaz, Martha Barba deDiaz, Martha Barba Diaz, Martha M. Diaz, Martha
Margarita Diaz, Martha B. Diaz and Martha B. de Diaz, and Alejandro Diaz-Barba, an individual,
aka Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirioa Diaz

and Porfirio Diaz ("Appellants") appeal under 28 U.S.C. section 158(a) and Rules 8001(a) and 8002(a) of the Federal Rules of Bankruptcy Procedure from the judgment of the Bankruptcy Court entitled Consolidated Judgment entered on June 2, 2008 (Docket Nos. 213 and 504), from the Consolidated Findings of Fact and Conclusions of Law entered by the Bankruptcy Court on June 2, 2008 (Docket Nos. 212 and 503), and from the Order on Motion to Alter or Amend Consolidated Judgment entered on July 30, 2008 (Docket Nos. 239 and 530), copies of which are attached hereto as Exhibits A, B and C.

The names of all parties to the judgment appealed from and the names, addresses, telephone, e-mail and fax numbers of their respective attorneys are as follows:

<p>Geraldine A. Valdez Kendra J. Hall Farzeen Essa Procopio, Cory, Hargreaves & Savitch LLP 530 B Street, Suite 2100 San Diego, CA 92101 Telephone: 619-238-1900 Facsimile: 619-235-0398 e-mail gav@procopio.com</p> <p><i>Attorneys for Defendants Alejandro Diaz-Barba & Martha Margarita Barba de la Torre</i></p>	<p>Stephen B. Morris, Esq. Morris & Associates 444 West C St., Ste. 200 San Diego, CA 92101 Telephone: 619-239-1300 Facsimile: 619-234-3672 e-mail: morris@sandiegolegal.com</p> <p><i>Attorneys for Defendant Alejandro Diaz-Barba</i></p>
<p>D. Anthony Gaston (SBN 57074) Attorney At Law Corporate Center 550 West C. Street, Suite 700 San Diego, CA 92101 Telephone: 619-234-3103 e-mail: daglaw@sbcglobal.net</p> <p><i>Attorney for Defendant Martha Margarita Barba de la Torre</i></p>	<p>Ali M.M. Mojdehi, Esq. Christine E. Baur, Esq. Janet D. Gertz, Esq. Baker & McKenzie LLP 12544 High Bluff Drive, Suite 300 San Diego, CA 92130 Telephone: 858-523-6280 Facsimile: 858-259-8290 e-mail ali.m.m.mojdehi@bakernet.com</p> <p><i>Attorneys for Plaintiffs Kismet Acquisition, LLC</i></p>

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Pro Se

Attorneys for Craig Kelley

DATED: August 6, 2008

PROCOPIO, CORY, HARGREAVES
& SAVITCH, LLP

By: /s/ Geraldine A. Valdez
Geraldine A. Valdez, Attorneys Defendants
Alejandro Diaz-Barba and
Martha Margarita Barba de la Torre

ENTERED JUN - 2 2008
FILED
JUN - 2 2008
CLERK, U.S. BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA BY _____ DEPUTY

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re:

**JERRY L. ICENHOWER dba
Seaview Properties, and DONNA L.
ICENHOWER,**

Debtors.

**KISMET ACQUISITION, LLC, a
Delaware limited liability company,
Successor-in-Interest to Gerald H.
Davis, Chapter 7 Trustee,**

Plaintiff,

v.

**JERRY L. ICENHOWER, an
individual; et al.**

Defendants.

Case No. 03-11155-A7

**Adv. No. 06-90369-A7
Adv. No. 04-90392-A7**

CONSOLIDATED JUDGMENT

The consolidated trials of adversary proceedings 04-90392 and 06-90369 were heard from April 21 to April 25, 2008 before the Honorable Louise DeCarl Adler. Janet D. Gertz and Ali M.M. Mojdehi appeared on behalf of plaintiff, Kismet Acquisition, LLC, successor-in-interest to Gerald H. Davis, the Chapter 7 Trustee ("Plaintiff"), and Stephen B. Morris and Mark C. Hinkley appeared on behalf of defendants Alejandro Diaz Barba and Martha Margarita Barba De La Torre (aka

EXHIBIT A

1 Martha Barba Diaz) (the "Diaz Defendants). No appearances were made on behalf
2 of defendants Howell & Gardner Investors, Inc. ("H&G"), and Jerry and Donna
3 Icenhower ("Debtors") (hereinafter the Diaz Defendants, H&G and Debtors are
4 collectively the "Defendants").

5 Witnesses were sworn in and examined, documentary evidence was introduced
6 on behalf of the parties and the case was argued by counsel for both the Plaintiff and
7 the Diaz Defendants. Having carefully considered the testimony of the witnesses and
8 arguments of counsel and the Court having made findings of fact and conclusions of
9 law on the record in open court and the Court having entered separate Findings of
10 Fact and Conclusions of Law concurrently herewith, and other good cause:

11 IT IS HEREBY ORDERED that:

12 1. Judgment is entered in favor of Plaintiff and against the Defendants on the
13 complaint in adversary proceeding 06-90369. It is hereby adjudged and decreed
14 that --

15 (a) H&G is the alter ego of the Debtors *nunc pro tunc* to the petition
16 date;

17 (b) The assets of H&G are hereby substantively consolidated with the
18 assets of the bankruptcy estate *nunc pro tunc* to petition date;

19 (c) the real property called the Villa Vista Hermosa, located in the
20 Village of Chamela in the Municipality of La Huerta, State of Jalisco,
21 Mexico (the "Villa Property") is property of the bankruptcy estate
22 pursuant to 11 U.S.C. § 541(a) *nunc pro tunc* to the petition date;

23 (d) The Debtors' unauthorized postpetition transfer of the Villa Property
24 to H&G is avoided pursuant to 11 U.S.C. 549(a);

25 (e) Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C.
26 § 550(a)(1) and § 551 the Villa Property from the Diaz Defendants as
27 the initial transferees of the avoided postpetition transfer. Within thirty
28 days of entry of this judgment, Defendants are hereby ordered and

1 directed to take all actions necessary to execute and deliver any and all
2 documents needed to undo the avoided transfer, and to take all actions
3 necessary to cause the property to be reconveyed to a *fideicomiso* trust
4 naming Plaintiff as the sole beneficiary for the benefit of the bankruptcy
5 estate; or

6 (f) alternatively, at Plaintiff's sole option made upon proper noticed
7 motion, the Court reserves jurisdiction to enter a monetary judgment in
8 favor of Kismet, and against Defendants, in an amount necessary to
9 make the estate whole at the time of judgment.

10 2. Alternatively, even if the Villa Property is not property of the bankruptcy
11 estate *nunc pro tunc* to the petition date, judgment is entered in favor of Plaintiff and
12 against the Defendants on the remaining claims in the amended complaint in
13 adversary proceeding 04-90392. It is hereby adjudged and decreed that –

14 (a) the Debtors' transfer of the Villa Property to H&G is avoided as a
15 fraudulent transfer under 11 U.S.C. § 544(b), pursuant to Cal. Civ.
16 Code §§ 3439.04(a)(1) and (a)(2) and § 3439.07;

17 (b) Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C.
18 §§ 550(a)(1) and (a)(2) and § 551 the avoided fraudulent transfer from
19 H&G as the initial transferee of the avoided fraudulent transfer, and
20 from the Diaz Defendants as the "immediate or mediate" transferees of
21 the initial transferee. Within thirty days of entry of this judgment,
22 Defendants are hereby ordered and directed to execute and deliver any
23 and all documents needed to undo the avoided transfer, and to take all
24 actions necessary to cause the property to be reconveyed to a
25 *fideicomiso* trust naming Plaintiff as the sole beneficiary for the benefit
26 of the bankruptcy estate; or

27 ///

28 ///

1 (c) alternatively, at Plaintiff's sole option made upon proper noticed
2 motion, the Court retains jurisdiction to enter a monetary judgment in
3 favor of Kismet, and against Defendants, in an amount necessary to
4 make the estate whole at the time of judgment.

5 3. The Court reserves for future determination made upon proper motion the
6 issues of an award of fees and expenses, and it reserves jurisdiction to issue any and
7 all orders necessary to carry out and enforce this judgment.

8
9
10 Dated: 2 June 08


LOUISE DE CARL ADLER, Judge

CAD 168
[Revised July 1985]

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 03-11155-A7
Adv. No. 06-90369-A7
Adv. No. 04-90392-A7
Case Name: In Re: JERRY L. ICENHOWER dba Seaview
Properties, et al.

CERTIFICATE OF MAILING

The undersigned, a regularly appointed and qualified clerk in the Office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to-wit:

CONSOLIDATED JUDGMENT

was enclosed in a stamped and sealed envelope and mailed to the following parties at their respective addresses listed below:

Stephen B. Morris, Esq.
Mark C. Hinkley, Esq.
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444 West C Street Suite 300
San Diego CA 92101

Howell & Gardner Investors, Inc.
c/o Jerry and Donna Icenhower
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Coronado CA 92118

Ali Mojdehi Esq.
Janet Gertz, Esq.
BAKER & MC KENZIE LLP
12544 High Bluff Dr. Third Floor
San Diego CA 92130-3051

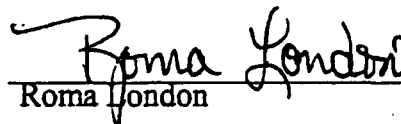
Gerald H. Davis, Chapter 7 Trustee
P.O. Box 2850
Palm Springs CA 92263

Jerry L. and Donna L. Icenhower
684 Margarita Avenue
Coronado CA 92118

Office of the United States Trustee
402 West Broadway, Suite 600
San Diego CA 92101

The envelope(s) containing the above document was deposited in a regular United States mail box in the City of San Diego in said district on June 2, 2008.

CAD 168


Roma London Deputy Clerk

ENTERED	<u>JUN - 2 2008</u>
FILED	
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CLERK, U.S. BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA BY _____ DEPUTY	

NOT FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF CALIFORNIA

In re:

**JERRY L. ICENHOWER dba
Seaview Properties, and DONNA L.
ICENHOWER,**

Debtors.

**KISMET ACQUISITION, LLC, a
Delaware limited liability company,
Successor-in-Interest to Gerald H.
Davis, Chapter 7 Trustee,**

Plaintiff,

v.

**JERRY L. ICENHOWER, an
individual; et al.**

Defendants.

Case No. 03-11155-A7

**Adv. No. 06-90369-A7
Adv. No. 04-90392-A7**

**CONSOLIDATED FINDINGS OF
FACT AND CONCLUSIONS OF
LAW**

I.

INTRODUCTION

The matter before this Court is the trial of two related adversary proceedings. The first is an action by Kismet Acquisition, LLC ("Kismet" or "Plaintiff"), as successor to the chapter 7 trustee ("Trustee") to avoid and recover the prepetition transfer of real property called the Villa Vista Hermosa, located in the Village of

EXHIBIT B

1 Chamela in the Municipality of La Huerta, State of Jalisco, Mexico (the "Villa
 2 Property") pursuant to §§ 544(b), 550 and 551.¹ The second is an action by Kismet,
 3 as successor to the Trustee, to determine that defendant Howell & Gardner Investors,
 4 Inc. ("H&G") is the alter ego of debtors Jerry and Donna Icenhower (collectively
 5 "Debtors") and/or for substantive consolidation of Debtors and H&G *nunc pro tunc*
 6 to the petition date, and to avoid and recover H&G's postpetition transfer of the Villa
 7 Property to defendants, Martha Barba Diaz and her son Alejandro Diaz Barba
 8 pursuant to §§ 549, 550 and 551 (collectively the "Diaz Defendants").² The
 9 remaining defendants in these actions are the Debtors, H&G and the Diaz
 10 Defendants.³

11 The Court has subject matter jurisdiction over the actions pursuant to 28 U.S.C.
 12 § 1334(b). The actions are core proceedings pursuant to 28 U.S.C. §§ 157(b)(1) and
 13 (2)(B), (E), (F), (H) and (O). Venue is proper in the Southern District of California
 14 pursuant to 28 U.S.C. § 1409(a).

15 II.

16 FINDINGS OF FACT

17 A. Background – Debtors' Relationship with the Lonie Trust.

18 1. In or about January 1984, D. Donald Lonie ("Mr. Lonie") established the
 19 D. Donald Lonie, Jr., Family Trust under the laws of the State of Nevada (the "Lonie
 20 Trust"). Mr. Lonie died in May 1997, at which time the Lonie Trust became
 21 irrevocable. The trustees of the Lonie Trust are Stephen E. Lonie, Diane C. Oney and
 22 Thomas E. Lonie.

23

24 ¹ *Kismet v. Icenhower et al.*, Adv. Proc. No. 04-90392 (hereinafter the "Fraudulent
 25 Conveyance Action").

26 ² *Kismet v. Icenhower et al.*, Adv. Proc. No. 06-90369 (hereinafter the "Alter Ego -
 27 Avoidance Action").

28 ³ See Adv. Proc. 06-90369, Doc. # 190, at Ex. 1 (listing the status of each of the defendants
 in both actions as of trial).

1 2. Prior to Mr. Lonie's death, Mr. Lonie and the Lonie Trust engaged
2 in business transactions with the Debtors concerning beneficial interests in a
3 *fideicomiso* bank trust which owned the Villa Property located in the restricted
4 coastal zone of Mexico.⁴

5 3. Prior to Mr. Lonie's death, the Lonie Trust agreed to sell its interest in
6 the Villa Property to the Debtors. The parties executed a Real Estate Purchase
7 Contract, and Mr. Icenhower executed two promissory notes, an English note and a
8 Spanish note to be recorded in Mexico, reflecting a different dollar amount to avoid
9 Mexican taxes. Thereafter, the Lonie Trust agreed to release its lien on the Villa
10 Property to assist Mr. Icenhower in consummating a sale of the Villa Property to a
11 third party with the agreement he would re-record the lien if the sale fell through.
12 Mr. Icenhower did not consummate the sale, and he disputed his obligation to re-
13 record the lien. Additionally, a dispute arose regarding which note was the operative
14 note -- the English note or the Spanish note.

15 4. On March 24, 2000, the Lonie Trust initiated an action against the
16 Debtors in the United States District Court for the Southern District of California
17 entitled *Stephen P. Lonie, Diane C. Oney and Thomas E. Lonie, Jr., Family Trust v.*
18 *Jerry L. Icenhower, et al.*, Civ. No. 00-CV-612 (the "district court action"), seeking
19 *inter alia*, a determination of the parties' respective rights and interests in the Villa
20 Property and injunctive relief (the "district court action").

21 5. On November 24, 2003, the district court entered judgment in favor of
22 the Lonie Trust. The judgment directed the Debtors to either: (1) pay damages in the
23 amount of \$1,356,830.32 and re-register a lien on the Villa Property as security for
24 the damages until paid by a date certain; or (2) reconvey the Villa Property to the
25

26 ⁴ Under Mexican law, a foreign national may not directly hold title to coastal real property
27 in Mexico, but may hold the beneficial interest in a *fideicomiso* bank trust formed to hold title to the
28 real property. Hereinafter, unless otherwise specified, all references to the transfer or sale of the Villa
Property refer to the transfer or sale of the beneficial trust interest.

1 Lonie Trust, free of any encumbrance, claim, lien, or liabilities placed on the Property
2 as a result of the Debtors' actions or inactions. [Pretrial Order ("PTO") entered
3 4/14/08 in Adv. Proc. 06-90369, Doc. # 191, Admitted Facts at ¶ 44]

4 6. In response to the judgment, Debtors filed this chapter 7 bankruptcy case
5 on December 15, 2003.

6 **B. Debtors' Relationship with H&G.**

7 7. H&G is a Nevada Corporation created as a shell corporate entity by
8 Laughlin International, Inc. ("Laughlin") in 2001.

9 8. On March 4, 2002, at a time when Debtors were facing a motion for
10 preliminary injunction and for summary judgment in the district court action,
11 Mr. Icenhower contacted Laughlin and purchased H&G, paying \$3,424 with his
12 personal credit card. There is no evidence that H&G had any capitalization other than
13 the \$3,424 contributed by Mr. Icenhower. There is no evidence any shares were ever
14 issued in exchange for capital contributions or anything of value.

15 9. Mr. Icenhower arranged for Laughlin to provide a phone number,
16 physical address and mail forwarding services. H&G had no separate physical place
17 of business, and simply utilized Laughlin's business address as a place to receive
18 mail. Mr. Icenhower also asked Laughlin to open a bank account in the name of
19 H&G. However, H&G had no funds of substance in any bank account, or other funds
20 from any source. Mr. Icenhower paid for Laughlin's continuing services with his
21 personal funds through and including October 22, 2003.

22 10. Craig Kelley ("Mr. Kelley") served as the sole officer and director of
23 H&G. Mr. Kelley's testimony at trial is that he agreed to serve in these capacities in
24 name only. Mr. Kelley did not understand his duties as the officer and director of a
25 corporation; he testified that he was a president on paper only. He took all orders
26 from Mr. Icenhower, and executed all documents because Mr. Icenhower told him to
27 sign them. Mr. Kelley testified that he never attended or called any shareholders
28 meeting. He never met or spoke to any of H&G's purported shareholders and was

1 unaware if there were any shareholders. Also, he was unaware of whether H&G was
2 capitalized.

3 11. Mr. Kelley was aware of Mr. Icenhower's financial and legal problems.
4 He agreed to help Mr. Icenhower by becoming H&G's officer and director because
5 he felt sorry for Mr. Icenhower, and because he was dating Mr. Icenhower's sister.

6 12. Mr. Kelley's trial testimony is inconsistent with his earlier deposition
7 testimony and, indeed, a Declaration he executed to alter that testimony. [Ex. "K"]
8 He explained that he gave perjured deposition testimony at Icenhower's urging, felt
9 remorse for doing so and, after consulting his own counsel, contacted Kismet's
10 lawyers to recant the earlier testimony he had given. He executed a Declaration
11 disavowing the earlier testimony which was also, in part, inaccurate. [*Id.*] Many of
12 the inaccuracies in this Declaration appear to be the result of its having been prepared
13 by Kismet's counsel – it is full of “legalese” and Kelley, a substance abuse counselor
14 with no business training, could not explain some of its “statements” because he did
15 not understand them. Also, because he was still trying to protect Mr. Icenhower's
16 sister, he admits the description of how he first met Mr. Icenhower is not accurate.
17 The Court observed his demeanor and his remorse at giving the earlier perjured
18 testimony and finds his explanations to be genuine and his trial testimony sincere and
19 credible.

20 13. Mr. Icenhower was the point of contact for H&G for all communications
21 from Laughlin until December 18, 2003, at which time he asked Laughlin to remove
22 his name from its records. Mr. Icenhower claims he was contacted by Mr. Diaz in his
23 capacity as the manager of the Villa Property.

24 14. H&G had no real corporate existence apart from Mr. Icenhower. It had
25 no business purpose other than as a sham company to hold the Debtors' assets.

26 15. H&G's corporate charter was revoked by the Nevada Secretary of State
27 on January 21, 2006.

28 ///

1 **C. The Debtors' Transfer of the Villa Property to H&G.**

2 16. On March 4, 2002, prior to judgment in the district court action, Debtors
3 entered into an agreement to transfer the Villa Property to H&G (the "H&G Purchase
4 Agreement"). The H&G Purchase Agreement provided that H&G would pay
5 \$100,000 cash and assume Debtors' intra-family debt in the amount of approximately
6 \$140,000 in exchange for Debtors' interest in the Villa Property and another property
7 known as the El Zafiro Property. [Ex. 53] However, there is no evidence that H&G
8 paid any of the recited consideration in exchange for transfer of the properties.

9 17. The H&G Purchase Agreement gave Mr. Icenhower absolute control
10 over the operation of the Villa Property, the right to all rental income from the Villa,
11 the responsibility for the payment of the expenses of the Villa, control over any sale,
12 a 10% commission on any sale up to \$1.5 million and a right to all proceeds over \$1.5
13 million. Further, the Purchase Agreement provided that H&G was required to sell its
14 beneficial interest in the *fideicomiso* trust if Mr. Icenhower presented it with a buyer
15 that made an offer to purchase that would net H&G \$1.35 million.

16 18. One week later, the H&G Purchase Agreement was amended and
17 through this amendment, the El Zafiro Property was released from the *fideicomiso*
18 trust and sold to Dr. Robert Miller for \$90,000. [Ex. 57] The amended agreement
19 provided that the consideration for El Zafiro was to be paid directly to Mr. Icenhower,
20 not H&G. The amendments further adjusted the purchase price as between the Villa
21 Property and the El Zafiro Property; it reduced the \$1.5 million number referenced
22 in Factual Finding ("FF") ¶ 17 above to \$1.4 million, and placed slightly different
23 restrictions on H&G's right to sell the beneficial interest in the *fideicomiso* trust. All
24 other terms of the original H&G Purchase Agreement remained the same.

25 19. The timing of the Debtors' purchase of H&G from Laughlin, and the
26 execution of the H&G Purchase Agreement transferring the Villa Property from
27 Debtors to H&G, coincided with the Lonie Trust's filing of a motion for a preliminary
28 injunction and for summary judgment in the district court action.

1 20. The transfer of the Villa Property from Debtors to H&G was recorded
2 in the Mexican Registry on September 2, 2002.

3 21. Debtors never disclosed they had transferred the Villa Property during
4 the district court litigation.

5 **D. The Background of the Diaz Defendants.**

6 22. Mr. Diaz and Ms. Barba Diaz are citizens of Mexico but residents of San
7 Diego County, California. Ms. Barba Diaz is Mr. Diaz' mother.

8 23. Mr. Diaz has a degree in math and computer science from the University
9 of California at San Diego, and is the officer and/or director or member of numerous
10 limited liability companies and corporations having a principal place of business in
11 San Diego County. [PTO in Adv. Proc. 06-90369, Doc. # 191, Admitted Facts ¶ 9]
12 Mr. Diaz testified that in 2002 he became chairman of the board of e.Digital Corp.,
13 a publicly held company, and was a member of its audit committee.

14 24. Ms. Barba Diaz is a member of the board and was president of XLNC1,
15 Inc., a radio station broadcasting classical music in San Diego. Further, it is an
16 admitted fact that she is an officer or director of a number of other companies having
17 a principal place of business in San Diego County. [PTO in Adv. Proc. 06-90369,
18 Doc. # 191, Admitted Facts ¶ 8]

19 25. At the time period of the Villa Property transaction, Ms. Barba Diaz and
20 her now-deceased husband were very ill. She relied on her son and their attorney to
21 handle all aspects of the transaction for her. She never met Mr. Icenhower before this
22 trial. She had no personal knowledge who owned the Villa Property at the time of its
23 transfer to the Diaz Defendants.

24 26. Ms. Barba Diaz testified she has a warm emotional attachment to the
25 Villa as it was the place where she spent many happy years visiting with their friends,
26 the Kochergas. She also testified that since its acquisition, she was aware the Villa
27 had been advertised as a vacation rental. Further, she admitted that she owns five
28 other oceanfront vacation properties in Mexico (which she does not rent).

E. Debtors' Relationship with the Diaz Defendants.

27. Mr. Icenhower first met Mr. Diaz at a coffee shop in Pacific Beach; they met through Eugene Kocherga ("E. Kocherga"). Mr. Diaz and E. Kocherga were childhood friends, having spent many summers together at the Villa Property when E. Kocherga's family owned the Villa Property. In the Summer of 2003, Mr. Diaz accompanied E. Kocherga on visit to the Villa Property during the planning of a Kocherga family wedding. Mr. Diaz remembers learning Mr. Icenhower was the "manager" of the Villa Property.

28. Mr. Diaz met Mr. Icenhower again at the wedding in August 2003. At this meeting, Mr. Diaz learned from Mr. Icenhower that the Villa might be for sale, but he considered the price too high. In the following months, and into 2004, Mr. Icenhower contacted Mr. Diaz several times concerning a possible sale of the Villa Property at successively lower prices but Mr. Diaz continued to indicate the price was too high.

29. As a result of continuing conversations, Mr. Diaz and Mr. Icenhower finally agreed to a purchase price \$1.5 million USD for the Villa Property, and Mr. Diaz commenced his due diligence. While Mr. Diaz was conducting his due diligence, Mr. Icenhower asked Mr. Diaz for a \$100,000 personal loan to invest in a golf pro shop. Mr. Icenhower promised he would make monthly payments and repay the balance from the fee he would earn from H&G on the sale of the Villa Property. Although Mr. Diaz did not know Mr. Icenhower very well, he made the loan. The loan is evidenced by a promissory note dated October 7, 2003. [Ex. 1]

30. Mr. Icenhower made the first monthly payment of \$750. Then he filed bankruptcy on December 15, 2003. [Ex. 121].

31. Mr. Icenhower did not contact Mr. Diaz to warn him about his bankruptcy filing. Mr. Diaz learned about the bankruptcy when he received the Notice of Commencement of Chapter 7 Bankruptcy Case. Mr. Diaz received this notice because Debtors listed the \$100,000 loan in their bankruptcy schedules.

1 32. Mr. Diaz was shocked and concerned about the bankruptcy. He
2 immediately contacted Mr. Icenhower, and they met at Mr. Diaz's residence.
3 Mr. Icenhower explained he filed bankruptcy because he had lost a big judgment to
4 the Lonie Trust which he believed to be improper and unfair. Additionally, at that
5 time, they discussed the sale of the Villa Property. Mr. Icenhower assured Mr. Diaz
6 the loan would be repaid through a \$100,000 reduction of the purchase price by
7 H&G. Mr. Diaz indicates he accepted Mr. Icenhower's explanation and did not feel
8 he needed to separately investigate why Mr. Icenhower had authority to lower the
9 sales price of the Villa Property to repay Mr. Icenhower's personal loan.

10 **F. The Diaz Defendants' Due Diligence Efforts.**

11 33. The Diaz Defendants used the services of Eduardo Sanchez
12 ("Mr. Sanchez"), a lawyer licensed only in Mexico, to conduct due diligence on their
13 purchase of the H&G interest in the *fideicomiso* trust. Mr. Sanchez testified he is not
14 licensed in the U.S. and is not familiar with U.S. law.

15 34. Mr. Sanchez testified that he viewed his role in conducting due diligence
16 as follows: to determine the legal existence of H&G; to determine that it was a
17 corporation in good standing in the U.S.; to determine that whoever signed the
18 documents of sale on H&G's behalf had the full power of attorney under Mexican law
19 to sell; and to personally review the records of the title to the Villa Property to
20 determine if previous transfers were legally correct and determine whether there were
21 any liens against the Villa Property. To that end, Mr. Sanchez obtained the Articles
22 of Incorporation of H&G [Ex. U-5]; obtained information from the State of Nevada
23 confirming that H&G was a corporation in good standing [Ex. U-4]; obtained a
24 corporate resolution authorizing Mr. Kelley, as the corporation's sole director, to
25 consummate the sale of the beneficial rights in the *fideicomiso* trust. [Ex. 202]; and
26 personally reviewed the property records in the property office in Autlan, Mexico,
27 determining that previous transfers of the Villa Property were legally correct and that
28 there were no liens or legal claims against the Villa Property.

1 35. Mr. Sanchez testified he was unconcerned with any requirements under
2 U.S. law for the transfer of this beneficial interest because he viewed the transaction
3 as one solely governed by Mexican real estate law. He did not request or obtain a
4 shareholders' resolution authorizing the sale of substantially all of H&G's assets and
5 he was unconcerned that the consideration for the sale was being paid to entities other
6 than H&G. Mr. Sanchez was aware of Mr. Icenhower's personal bankruptcy;
7 however, he was unconcerned with it because he viewed the transaction as the
8 purchase of the interest in the *fideicomiso* trust from H&G. He did not check either
9 the bankruptcy court file or call the Trustee. Mr. Sanchez testified that he was not
10 told by Mr. Diaz or anyone else that Mr. Icenhower had warned Mr. Diaz that the
11 Trustee was looking into the transaction by which Debtors sold the Villa Property to
12 H&G. However, the Court observes that Mr. Sanchez also testified that he does not
13 keep any emails or notes from conversations with his clients.

14 **G. H&G's Transfer of the Villa Property to the Diaz Defendants**

15 36. On March 31, 2004, Mr. Diaz gave H&G a check in the amount of
16 \$25,000. [Ex. D] The check states in the "memo" section that it is for the "Vista
17 Hermosa." Although this check to H&G is purportedly endorsed by Mr. Kelley,
18 Mr. Kelley testified that he did not sign it. The fact that the endorsement on the
19 check has Mr. Kelley's name misspelled corroborates Mr. Kelley's claim it is not his
20 signature, as it is highly unlikely he would misspell his own name.

21 37. On June 7, 2004, H&G and the Diaz Defendants executed a formal
22 purchase agreement for the Villa Property ("Agreement") [Ex. 2] The Agreement
23 required the Diaz Defendants to pay stated consideration of \$7,508,800 Mexican
24 pesos which is approximately equivalent to \$658,071 USD for the Villa Property.
25 However, testimony of Mr. Icenhower, the Diaz Defendants, Mr. Kelley and
26 Mr. Sanchez, establishes that the actual agreed price was \$1,500,000 USD. Mr. Diaz,
27 Mr. Sanchez, and Mr. Icenhower acknowledge that the lower stated price in the
28 Agreement was a commonly-used ruse to reduce the Mexican taxes imposed on the

1 sale.

2 38. On or about June 7, 2004, the closing of the sale of the Villa Property to
3 the Diaz Defendants took place in San Diego, California. Mr. Icenhower, Mr. Kelley,
4 Mr. Sanchez, and Mr. Diaz were present at the closing which was held at the Chula
5 Vista office of Peter Thompson, a lawyer. Even though Mr. Kelley physically signed
6 the documents on behalf of H&G in his capacity as officer and director of H&G, the
7 testimony of Mr. Kelley, and, to some extent, Mr. Diaz, was that Mr. Icenhower
8 controlled the closing of the sale to the Villa Property to the Diaz Defendants .
9 Mr. Kelley was a passive participant. He did what Mr. Icenhower directed him to do.
10 Other than exchanging pleasantries at this meeting, Mr. Kelley had no interaction or
11 communication with the Diaz Defendants.

12 39. The only consideration paid directly to H&G by the Diaz Defendants
13 was the \$25,000 paid in March 2004. [See FF ¶ 36] At the closing, Mr. Icenhower
14 directed the Diaz Defendants to pay the balance of the consideration to third parties
15 as follows: (i) \$675,000 USD to Buckeye International Funding, Inc. [Ex. C];
16 (ii) \$398,663 USD to Western Financial Assets, Inc. [Ex. A]; and (iii) \$191,567 USD
17 to Icenhower Investments, to a bank account controlled by Mr. Icenhower's brother
18 [Ex. B].

19 40. Neither Mr. Diaz nor Mr. Sanchez thought it odd that Mr. Icenhower
20 directed them to pay most of the consideration (other than the initial \$25,000 paid to
21 H&G in March 2004), to third parties and not to H&G.

22 41. The Villa Property constituted all of the property owned by H&G.
23 However, the only authorizations for the sale of the *fideicomiso* trust interest to the
24 Diaz Defendants was the corporate resolution by Mr. Kelley as sole director.
25 [Ex. 202] There is no evidence of a shareholder resolution authorizing the transfer
26 of all of the property of the corporation as required by Nevada law and, specifically,
27 by Article TENTH of H&G's Articles of Incorporation. [Ex. U-5]

28 ///

1 42. The sale of the Villa Property from H&G to the Diaz Defendants was
2 recorded in the Mexican Registry on September 8, 2004.

3 43. Shortly after the sale was consummated, Mr. Kelley resigned as the
4 officer and director of H&G; Mr. Icenhower informed Laughlin that he and
5 Mr. Kelley were no longer involved with H&G; and Laughlin ceased to provide an
6 address, telephone or mail forwarding services for H&G, as the annual maintenance
7 fees were unpaid.

8 **H. The Trustee's Litigation Against the Defendants**

9 44. The Debtors first disclosed their transfer of the Villa Property to H&G
10 at their § 341(a) meeting on January 12, 2004. [PTO in Adv. Proc. 06-90369, Doc.
11 #191, Admitted Facts ¶ 35] At the continued meeting of creditors on March 22, 2004,
12 the Trustee questioned the Debtors further regarding this transfer.

13 45. On August 23, 2004, the Trustee filed the fraudulent conveyance action
14 to avoid and recover Debtors' transfer of the Villa Property to H&G. Additionally,
15 the Trustee obtained a temporary restraining order and preliminary injunction
16 prohibiting the defendants from transferring or encumbering the Villa Property.
17 [Adv. Proc. 04-90392, Doc. #14; #28; #42] The Trustee did not name the Diaz
18 Defendants in the complaint because he was unaware that H&G had already
19 transferred the Villa Property to the Diaz Defendants.

20 46. In or about February 2005, the Trustee learned about H&G's transfer
21 of the Villa Property to the Diaz Defendants. Accordingly, the Trustee filed an
22 *ex parte* application to amend the complaint to include this subsequent transfer to the
23 Diaz Defendants, and he sought and obtained additional injunctive relief restraining
24 the newly added defendants from further transferring or encumbering the Villa
25 Property. [*Id.*, Doc. #63, #65, #71-72]

26 47. The Trustee asserted that H&G had violated the first injunction
27 precluding transfer of the Villa Property. However, the sale to the Diaz Defendants
28 had closed *before* entry of the first restraining order, and the Diaz Defendants

1 recorded their deed in the Mexican Registry *before* the Court's Amended Temporary
2 Restraining Order entered on February 5, 2005.

3 48. On August 3, 2006, the Trustee filed the Alter Ego - Avoidance Action
4 to determine that H&G is Debtors' alter ego and/or for substantive consolidation of
5 Debtors and H&G *nunc pro tunc* to the petition date, and to avoid and recover the
6 postpetition transfer of the Villa Property pursuant to § 549 and § 550.

7 49. H&G did not appear in either of the actions, and has made no attempt to
8 defend any of the claims alleged against it. The Court has entered the default against
9 H&G in both actions. Accordingly, it is an admitted fact that, as to H&G, the facts
10 alleged in the complaints are deemed admitted. [See PTO in Adv. Proc. 06-90369,
11 PTO, Admitted Facts ¶¶ 21-29; PTO in Adv. Proc. 04-90392, Admitted Facts ¶ 14.]

12 **I. Kismet's Entry into the Bankruptcy Case.**

13 50. Kismet was a stranger to this bankruptcy case until on or about July 5,
14 2006, when it filed a Notice of Transfer of Claim indicating it had purchased the
15 Lonie Trust's claims against the estate.⁵ [Main Case Doc. # 69]

16 51. Thereafter, Kismet negotiated with the Trustee to purchase the estate's
17 assets, including assignment of these actions, in exchange for payment of an amount
18 sufficient to pay all creditors in full except its own claims which Kismet voluntarily
19 subordinated ("Asset Purchase Agreement"). The Asset Purchase Agreement was
20 subject to overbid. Creditors and all interested parties, including the Diaz
21 Defendants, received notice of the motion to sell these actions.

22 52. At the hearing held November 30, 2006, the Court approved the Asset
23 Purchase Agreement and an order was entered on December 7, 2006. [Main Case
24 Doc. # 95] Pursuant to the Asset Purchase Agreement, Kismet was substituted into
25

26 ⁵ The Notice of Transfer of Claim indicates Kismet purchased Proof of Claim No. 4 filed
27 in the amount of \$1,385,950.65. This claim includes Kismet's claims arising from the judgment and
28 from a Joint Litigation Agreement with the Trustee to advance the Trustee's legal fees to prosecute
these actions for the benefit of the estate.

1 these actions in place of the Trustee as the real party in interest.

2 53. The estate remains open for administration. However, Kismet is the only
3 creditor remaining to be paid.

4 **J. Expert Testimony Concerning Due Diligence Required by United**
5 **States Law and the Alter Ego Claim.**

6 54. Professor C. Hugh Friedman of the University of San Diego Law School
7 ("Prof. Friedman"), an expert in United States corporate law, testified regarding the
8 level of due diligence exercised by the Diaz Defendants. He was asked to assume that
9 the Diaz Defendants did not obtain a copy of a corporate or shareholder resolution
10 authorizing the sale of all of H&G's property (the Villa Property); did not obtain any
11 representations or warranties regarding proper corporate authorization to complete
12 the sale; and did not obtain any written authorization from H&G to direct payment
13 of the consideration for the sale to a bank in Visalia, California to the order of third
14 parties, not H&G. Assuming these facts, which were all proved at trial, Prof.
15 Friedman testified that the standard of care was well below the expected customary
16 standard of care and practice for a buyer or someone acting on behalf of the buyer
17 and, in his view, totally inadequate.

18 55. Prof. Friedman was further asked to assume the following facts, all of
19 which were also proved at trial:

- 20 ● that Mr. Icenhower had extensive correspondence with Laughlin regarding
21 payment of their fee and payment of Nevada taxes to keep H&G in good
22 standing; that Mr. Icenhower paid these fees and taxes as requested;
- 23 ● that there was no evidence of transfer of assets or other capitalization of H&G
24 other than the Icenhower-owned property (the Villa Property and El Zafiro);
- 25 ● that the transfer of the property to H&G occurred at a time when
26 Mr. Icenhower was under the threat of issuance of an injunction;
- 27 ● that there was no evidence of a corporate resolution to issue stock;

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- 1 • that there was no evidence of shareholders whose names were recorded in the
- 2 corporate register;
- 3 • that the only officer was a straw or "dummy" officer who exercised no
- 4 discretion but did what he was told by Mr. Icenhower;
- 5 • that the corporation had no address or phone number other than that of
- 6 Laughlin, the original seller of the corporate shell;
- 7 • that the Diaz Defendants were aware that Mr. Icenhower had previously owned
- 8 the Villa Property and had a continuing role in managing the property, and was
- 9 the sole person negotiating its sale on behalf of H&G; and
- 10 • that the Diaz Defendants were told by Mr. Icenhower that he would reduce the
- 11 price of the Villa Property being purchased from H&G to repay them for the
- 12 \$100,000 loan discharged in his personal bankruptcy.

13 Based on the foregoing facts, it was Prof. Friedman's opinion that
 14 Mr. Icenhower had total control of H&G and that H&G is the alter ego of
 15 Mr. Icenhower. The Court finds this opinion persuasive and adopts it as the finding
 16 of the Court.

17 **K. Expert Testimony Concerning Due Diligence Required by Mexican**
 18 **Law.**

19 55. Professor Jorge Vargas of the University of San Diego Law School
 20 ("Prof. Vargas"), testified on behalf of the Diaz Defendants about Mexican law
 21 governing the sale of interests in *fideicomiso* trusts. Prof. Vargas' testimony
 22 concerning the transaction at issue was somewhat inconsistent. First, he testified that
 23 disputes involving beneficial interests in *fideicomiso* trusts holding title to real
 24 property in the restricted coastal zone of Mexico are more in the nature of *in rem*,
 25 rather than *in personam* actions under Mexican law because of the application of the

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1 Calvo clause.⁶ However, on cross-examination, he admitted that in an article he
2 authored in March 2007, he opined that he considered the Calvo clause a "legal relic."

3 56. Second, Prof. Vargas testified at length on direct examination about the
4 sufficiency of the due diligence conducted by the Diaz Defendants. In his opinion,
5 once the Diaz Defendants' counsel Mr. Sanchez determined that previous transfers
6 of the Villa Property were regular, that the transferor corporation, H&G, was in good
7 standing; that the notary public certified there were no liens or claims against the
8 Villa Property, and that there was a proper corporate resolution, the transaction could
9 close and would be a legitimate and complete transaction under Mexican law.

10 57. On cross examination, Prof. Vargas testified as to what he believed was
11 a higher duty of due diligence in a cross-border transaction. For example, he stated
12 that some investigation into the nature of the business and the reputation of the selling
13 (or buying) a U.S. corporation should be conducted to avoid involvement in money
14 laundering by drug or arms dealers; that some contact with the U.S. corporation by
15 telephone should be attempted; that some information about the capitalization of the
16 U.S. corporation should be obtained; and, generally, that getting into the "intricacies"
17 of the U.S. corporation was a necessary part of due diligence in a cross-border
18 transaction. Prof. Vargas stated that in his view, it was the obligation of Mexican
19 counsel to do this investigation or associate U.S. counsel to assist in that
20 investigation. He opined that failure to do this was negligence in performing due
21 diligence. Thereafter, the next day, on redirect by the Diaz Defendants' counsel,
22 Prof. Vargas retracted this testimony and his opinion of negligence, characterizing it
23 as excessively academic.

24 58. Finally, as to questions posed by the Court, Prof. Vargas stated that
25 Mexican corporations operate in a manner similar to U.S. corporations; that is, they
26

27 ⁶ The Calvo clause is a doctrine of Mexican law which holds that judgments rendered by
28 foreign courts purporting to affect real property in Mexico are unenforceable as against the public
interest of Mexico, and contrary to the exclusive sovereignty of Mexico over its realty.

1 operate through the mechanism of corporate resolutions and they require a
2 shareholders' resolution to dispose of substantially all of the property of a Mexican
3 corporation.

4 59. Eduardo Bustamante ("Mr. Bustamante") testified on behalf of Kismet
5 in rebuttal to Prof. Vargas' opinion of the regularity of the Villa Property transaction
6 and the sufficiency of due diligence. Mr. Bustamante is an attorney licensed in
7 Mexico since 1979. He obtained a Masters in Law from a U.S. university and then
8 returned to private practice in Mexico, doing commerical and civil litigation and
9 eventually specializing in cross-border business and real estate transactions. He and
10 his firm represent Fortune 500 companies. He has testified in court proceedings at
11 least five times as an expert witness, as well as been employed in that capacity at least
12 ten times. He is also designated as an official translator for the State Supreme Court
13 of the Northern Baja Peninsula.

14 60. Mr. Bustamante identified the following items as "red flags" that
15 required additional enquiry by the Diaz Defendants:

- 16 • Article SIXTH of the Purchase Agreement conveys not only the *fideicomiso*
17 trust interest but also personalty, including vehicles, but there is no warranty
18 by the seller H&G that the personalty was legally within Mexico. [Ex. 2]
19 Mr. Bustamante stated this is a significant omission because vehicles, for
20 example, have to be properly imported into Mexico, otherwise they are
21 contraband. A carefully crafted purchase agreement would not only contain
22 warranties of title to the personalty but also require the seller to substantiate his
23 claim of ownership. Mr. Bustamante says that, in his opinion, such omission
24 indicates the parties were in a rush to close the transaction.
- 25 • The disparity between the stated purchase price (\$7,508,800 Mex. Pesos or
26 \$678,071 USD), versus the actual price for the purchase of \$1,500,000 USD,
27 was irregular. It was his opinion that where there is this sort of disparity, either
28 the seller is misleading the buyer or there is collaboration between them in

1 understating the purchase price so that the transaction has a "discount" by way
2 of incurring less taxes.

3 ● Payment of the consideration to entities other than H&G required additional
4 due diligence by the Diaz Defendants or their counsel because a purchaser has
5 to know where the proceeds are going to avoid violating Mexican laws about
6 money laundering.

7 ● The 2002 H&G Purchase Agreement between Mr. Icenhower and H&G which
8 gave Mr. Icenhower total control over management and sale of the Villa
9 Property, and the right to retain all rentals, should have raised questions about
10 the relationship between Mr. Icenhower and H&G. [FF ¶ 17]

11 61. In completing his review of Mr. Sanchez' file, it was Mr. Bustamante's
12 opinion that the due diligence of the Diaz Defendants was lacking. Because of
13 irregularities he identified in the transfers between the prior holders of interests in the
14 *fideicomiso* trust, he believes, at minimum, Mr. Sanchez should have tried to contact
15 the prior owners of the *fideicomiso* trust interests (e.g., the Lonie Trust or its
16 beneficiaries, or their counsel) to find out if any residual interest was being asserted.
17 That investigation would have revealed the district court litigation which precipitated
18 Mr. Icenhower's transfer to H&G. When pressed on cross-examination,
19 Mr. Bustamante characterized the failure to do this as negligent.

20 62. Further, Mr. Bustamante disagreed with Prof. Vargas' characterization
21 of the rights in the *fideicomiso* trust as *in rem* rights, stating that they are *in personam*
22 rights. This point is critical to determining whether the Trustee or his predecessors,
23 the Lonie Trust and the Lonies, could have recorded a "preventative notice" of the
24 pending litigation, providing public notice of a claim against the trust beneficiary. It
25 was Mr. Bustamante's uncontroverted testimony, based on his experience, that a final,
26 nonappealable judgment would first have had to be obtained before that order could
27 be domesticated into a foreign judgment in Mexico to lien *in personam* rights held
28 by a *fideicomiso* trust. Since the Lonie Trust's judgment was prevented from

1 becoming a final, nonappealable order by Icenhower's bankruptcy, no preventative
2 notice could have been recorded against the trust interest holding the Villa. Mr.
3 Bustamante's explanation is clear, consistent and persuasive.

4 63. The Court has weighed the testimony, experience and demeanor of
5 Mr. Sanchez, Prof. Friedman, Prof. Vargas and Mr. Bustamante and, based on the
6 findings made above, finds that the Diaz Defendants exercised insufficient due
7 diligence in determining whether the purchase from H&G was legally sufficient and
8 permitted.

9 **L. Other Facts that Should have Triggered Further Enquiry.**

10 64. In addition to the inadequate due diligence found in Factual Findings
11 ¶¶ 57-63 above, the Court finds that Diaz Defendants knew or should have known the
12 following facts prior to the closing of the sale of the Villa Property:

13 65. Mr. Diaz knew that even though the interest in the Villa Property was
14 titled in H&G, Mr. Icenhower retained total control over the management of the Villa
15 Property and its sale price, including the right to reduce that price to repay his
16 personal debts. Mr. Diaz asked no questions about how Mr. Icenhower could adjust
17 the Villa Property sales price. Moreover, Mr. Diaz knew that Mr. Icenhower, a person
18 he barely knew, had approached him for a \$100,000 loan just two months before
19 filing bankruptcy without any warning. Mr. Diaz admits he was concerned and he
20 should have been on heightened enquiry. Had Mr. Diaz conducted *any* independent
21 investigation into the bankruptcy, he would have discovered the district court action
22 involved the Villa Property and the Trustee was questioning the Debtors' transfer of
23 the Villa Property to H&G.

24 66. The Diaz Defendants had actual notice of the possibility of litigation by
25 the Trustee (i) challenging the Debtors' sale of the Villa Property to H&G; and
26 (ii) attempting to tie Debtors with H&G. Mr. Icenhower is one hundred percent
27 certain he discussed the possibility of the litigation with the Diaz Defendants,
28 including the Trustee's claim that H&G was a "shell." He is certain these

1 conversations took place "prior to closing" because he used these facts to hurry up
2 Mr. Diaz's decision to purchase the Villa. He wanted Mr. Diaz to understand that if
3 he wanted to purchase the Villa Property, he needed to act quickly. Mr. Diaz
4 acknowledges the conversation but disputes the timing, claiming it occurred after the
5 close of the transaction.

6 67. The Court finds that although Mr. Icenhower may be partially mistaken
7 about the scope of that conversation, the conversation about possible litigation
8 avoiding the Debtors' transfer of the Villa Property to H&G did, in fact, take place
9 prior to closing. Mr. Icenhower is a witness who has aligned himself with the Diaz
10 Defendants throughout this litigation. He has no reason to lie about the timing of his
11 disclosure of possible litigation.

12 68. The Diaz Defendants had in their possession prior to closing the actual
13 Articles of Incorporation of H&G which require a shareholders' resolution to sell
14 substantially all of the property of H&G. They knew that no such resolution had been
15 provided.

16 69. Consistent with Mr. Icenhower's testimony, Mr. Diaz and Mr. Sanchez
17 testified they were unconcerned about the possibility of litigation against Icenhower
18 in the United States. Mr. Diaz and his counsel had done due diligence in Mexico, and
19 relied upon their finding of no liens filed against the Villa Property

20 70. Craig Kelley, the purported president of H&G, did not participate in the
21 closing of the sale other than to sign documents handed to him by Icenhower.

22 II.

23 CONCLUSIONS OF LAW

24 A. Kismet is Entitled to Judgment on its Claims in the Alter Ego - Avoidance 25 Action.

26 1. H&G is Debtors' alter ego.

27 71. To prevail on a claim for alter ego, the plaintiff must demonstrate that:
28 (1) the corporation is influenced and governed by the person asserted to be the alter

1 ego; (2) there is such unity of interest and ownership that one is inseparable from the
2 other; and (3) the facts must be such that adherence to the corporate fiction of a
3 separate entity would, under the circumstances, sanction a fraud or promote injustice.
4 *Polaris Indus. Corp. v. Kaplan*, 103 Nev. 598, 601 (1987). The plaintiff in an alter
5 ego action must show the three factors by a preponderance of the evidence. *LFC Mktg.*
6 *Group, Inc. v. Loomis*, 116 Nev. 896, 904 (Nev. 2000).

7 72. In determining whether the “unity of interest and ownership” prong is
8 satisfied, the Nevada Supreme Court requires a finding of equitable ownership, taking
9 into consideration all factors such as comingling of funds, undercapitalization,
10 unauthorized diversion of funds, treatment of corporate assets as the individual’s own,
11 and failure to observe corporate formalities. See *North Arlington Medical Bldg, Inc.*
12 *v. Sanchez Const. Co.*, 86 Nev. 515, 522 n. 8 (1970). Moreover, under Nevada law,
13 it is not necessary for the plaintiff to prove the alter ego’s ownership of shares of the
14 corporation in order to prove unity of ownership. *LFC Mktg. Group*, 116 Nev. at 905;
15 see also *Mallard Automotive Group, Ltd. v. LeClair Management Corp.*, 153 F.Supp.
16 2d 1211, 1215 (D. Nev. 2001).

17 73. In determining whether the facts are such that adherence to the corporate
18 fiction would sanction a fraud or promote injustice, courts have held an alter ego
19 finding is appropriate where an entity has been used as an instrumentality against the
20 rights of creditors: where the defendants “have each engaged in transactions with the
21 actual intent to hinder, delay or defraud creditors the liability of the corporate
22 pawns for that scheme will be visited upon the controlling individual.” *In re National*
23 *Audit Defense Network*, 367 B.R. 207, 230 (Bankr. D. Nev. 2007). In this respect,
24 “[i]t is not necessary that the plaintiff prove actual fraud. It is enough if the
25 recognition of the two entities as separate would result in injustice.” *In re Giampietro*,
26 317 B.R. 841, 849 (Bankr. D. Nev. 2004) (citing *McCleary Cattle Co. v. Sewell*, 73
27 Nev. 279, 282 (1957)).

28 ///

1 74. Where (as here) the plaintiff seeks to pierce the corporate veil in reverse,
2 it is proper to infer equitable ownership and pierce the corporate veil in reverse, based
3 upon findings of the individual's dominion and control of their corporate alter ego.
4 The Nevada Supreme Court explained:

5 [Defendant entity] argues that the district court blurred the
6 second element – unity of ownership – with the first –
7 influence and control. [Defendant entity] underscores the
8 fact that William does not own a single share of [Defendant
9 entity], and thus argues that this element cannot be found.
10 We disagree. Although ownership of corporate shares is a
11 strong factor favoring unity of ownership and interest, the
absence of corporate ownership is not automatically a
controlling event. Instead, the "circumstances of each case"
and the interests of justice should control. *This is especially
true when considering the ease with which corporations
may be formed and shares issued in names other than the
controlling individual.*

12 *LFC Mktg. Group*, 116 Nev. at 904-5 (citations omitted)(emphasis added); *accord*
13 *Mallard Automotive*, 153 F.Supp. 2d at 1215-16.

14 75. In this case, the Court found that Mr. Icenhower had complete control over
15 H&G; that H&G had no separate corporate existence and no business purpose other
16 than serving as a sham holding company for Debtors' assets; and that H&G is the alter
17 ego of Mr. Icenhower. [FF ¶ 14; ¶¶ 54-55]

18 76. The remaining question is whether the circumstances of this case require
19 the corporate veil to be pierced in reverse to prevent a fraud or injustice. In making
20 this determination, the Court must weigh both the reasonable expectations of Kismet
21 who stands in the shoes of the Trustee's predecessor, the Lonie Trust, in its dealings
22 with Mr. Icenhower, and the reasonable expectations of the Diaz Defendants who
23 claim to have dealt with H&G as a separate corporate entity and to have purchased the
24 Villa Property from H&G in good faith. *See e.g. In re Flamingo 55, Inc.*, 242 Fed.
25 Appx. 456, 457-58 (9th Cir. 2007) (Nevada).

26 77. In contrast, the Diaz Defendants have asked the Court to ignore the
27 reasonable expectations of the Lonie Trust and to focus, instead, on Kismet's
28 reasonable expectations. They point out that Kismet was never a victim of

1 Mr. Icenhower's fraudulent scheme, having been a stranger to the transaction and the
2 bankruptcy case until 2006. [FF ¶¶ 50-53] Kismet is building a golf resort which
3 surrounds the Villa Property. Kismet's alleged motive is to acquire the Villa Property
4 as a "crown jewel" for its golf resort. The Court made no findings concerning these
5 objectives because they are irrelevant to the alter ego claim. Kismet, stands in the
6 shoes of the Trustee who brought the alter ego claim on behalf of the Lonie Trust and
7 other creditors of the estate. As such, the relevant inquiry is not Kismet's objectives
8 or the timing of its entry into this case. The relevant inquiry is *the reasonable*
9 *expectations of the estate's creditors and others who dealt with the Debtors and H&G*
10 *at the time the Villa Property transaction closed.* If this enquiry reveals that
11 adherence to H&G's corporate fiction would sanction a fraud or promote injustice, the
12 remedies of alter ego and reverse veil piercing are appropriate. Here, the evidence
13 demonstrates the Lonie Trust dealt with the Debtors in good faith, and it had a
14 reasonable expectation that its claim would be paid, or the Villa Property would be
15 reconveyed to the Lonie Trust free of any encumbrances or liens. [FF ¶¶ 1-5] In
16 contrast, as more fully set forth in Conclusions of Law ("CL") ¶¶ 102-105 below, the
17 evidence demonstrates the Diaz Defendants lacked good faith. They had no
18 reasonable expectation they were dealing with H&G as a separate corporate entity, or
19 that they would be purchasing the Villa Property from H&G free of any claims of the
20 Trustee. [FF ¶¶ 54-55; ¶¶ 60-63; ¶¶ 64-70]

21 78. The Court concludes the equities of this case support the remedies of alter
22 ego and reverse piercing of the corporate veil *nunc pro tunc* to the petition date. The
23 factual reality is that Mr. Icenhower and H&G were one and the same. Mr. Icenhower
24 was the equitable owner of the Villa Property on the petition date, and the Diaz
25 Defendants had ample notice of his equitable ownership before the Villa Property
26 transaction closed.

27 79. Further, it is appropriate to substantively consolidate H&G with the
28 Debtors' bankruptcy estate. *See In re Bonham*, 229 F.3d 750, 763-64 (9th Cir. 2000).

1 The *Bonham* test requires that the court consider two factors: “(1) whether creditors
2 dealt with the entities as a single economic unit and did not rely on their separate
3 identity in extending credit; or (2) whether the affairs of the debtor are so entangled
4 that consolidation will benefit all creditors.” *Id.* at 766. “The primary purpose of
5 substantive consolidation ‘is to ensure the equitable treatment of all creditors.’”
6 *Bonham*, 229 F.3d at 764 (quoting *In re Augie/Restivo Baking Co., Ltd.*, 860 F.2d 515
7 (2nd Cir. 1988)). It allows a truly equitable distribution of assets by treating the
8 corporate shell as a single economic unit with the bankruptcy estate. *Id.* at 768. Here,
9 the same facts that support alter ego and reverse veil piercing support substantive
10 consolidation to return the Villa Property (H&G’s sole asset) to the Debtors’
11 bankruptcy estate *nunc pro tunc* to the petition date. *See Id.* (finding that substantive
12 consolidation *nunc pro tunc* to the petition date would allow a truly equitable
13 distribution of assets because it would make it possible for the trustee to pursue
14 avoidance actions for the benefit of the creditors of the consolidated bankruptcy
15 estates).

16 **2. The Villa Property is property of the estate so the transfer to the**
17 **Diaz Defendants is avoidable under 11 U.S.C. § 549 as an**
18 **unauthorized postpetition transfer.**

19 80. Under 11 U.S.C. § 541(a), “[t]he commencement of a case under section
20 301, 302, or 303 of this title creates an estate.” The estate is comprised of, *inter alia*,
21 “all legal or equitable interests of the debtor in property as of the commencement of
22 the case.”

23 81. Section 549(a) allows a trustee to avoid a transfer of property of the estate
24 made after the commencement of the case which is not authorized under the
25 Bankruptcy Code or by the court. *In re Goodwin*, 115 B.R. 674, 676 (Bankr. C.D. Cal.
26 1990). Section 549(c) creates an exception to avoidance to protect innocent
27 purchasers of real property who had no knowledge of the pending bankruptcy case.
28 *In re Tippet*, 338 B.R. 82, 87-88 (9th Cir. BAP 2006).

///

1 82. The Court's finding of alter ego and its substantive consolidation of H&G
 2 into the Debtors' estate *nunc pro tunc* to the petition date promotes the equitable
 3 reality that the Villa Property was property of the estate on the petition date. The
 4 transfer of the Villa Property from the bankruptcy estate to the Diaz Defendants was
 5 an unauthorized postpetition transfer of property of the estate avoidable under
 6 § 549(a).

7 83. The Diaz Defendants have no defense to avoidance because they admit
 8 knowledge of the Debtors' bankruptcy case prior to the closing of the Villa Property
 9 transaction. [FF ¶ 31] Further, as more fully set forth in CL ¶ 103-106 below, the
 10 Court finds the Diaz Defendants lacked good faith.

11 **3. Kismet's recovery of the avoided postpetition transfer pursuant to**
 12 **11 U.S.C. § 550(a)(1) is absolute.**

13 84. Section 550(a) of the Bankruptcy Code provides that to the extent that a
 14 transfer is avoided under §§ 544, § 545, 547, 548, 549 or 724(a), the trustee may
 15 recover, for the benefit of the estate, the property transferred, or if the court so orders,
 16 the value of such property, from – (1) the initial transferee of such transfer or the
 17 entity for whose benefit such transfer was made; or (2) any immediate or mediate
 18 transferee of such initial transferee. Quite simply put, § 550 identifies the parties
 19 liable for repayment of an avoided transfer, and empowers the trustee to recover the
 20 property transferred or its value for the benefit of the estate. *In re Brun*, 360 B.R. 669,
 21 672 (Bankr. C.D. Cal. 2007).

22 85. The purpose of § 550(a) is “to restore the estate to the financial condition
 23 it would have enjoyed if the transfer had not occurred.” *In re Straightline*
 24 *Investments, Inc.*, __ F.3d __, 2008 WL 1970560 at *9 (9th Cir. May 8, 2008) (citing
 25 *In re Acequia, Inc.*, 34 F.3d 800, 812 (9th Cir. 1994)); *Brun*, 360 B.R. at 674-75. If the
 26 value of the property has declined following a fraudulent transfer, returning devalued
 27 property itself would not make the estate whole. In such instances, the courts have
 28 awarded a money judgment. On the other hand, when the property has appreciated,

1 the trustee is entitled to recover the property itself, or the value of the property at the
 2 time of judgment. The statute, in prescribing alternatives, is purposefully flexible to
 3 accomplish its remedial goal. *Brun* at 674-75; *In re American Way Service Corp.*,
 4 229 B.R. 496, 531-32 (Bankr. S.D. Fla. 1999).

5 86. The Trustee's entitlement to recover an avoided transfer from the initial
 6 transferee is absolute under § 550(a)(1). *In re Cohen*, 300 F.3d 1097, 1102 (9th Cir.
 7 2002). In contrast, § 550(b) provides an exception to the right of recovery against an
 8 "immediate or mediate" transferee of the initial transferee who takes for value, in good
 9 faith and without knowledge of the voidability of the transfer avoided, or any
 10 immediate or mediate good faith transferee of such transferee. This good faith
 11 defense is only available to subsequent transferees. *Cohen*, 300 F.3d at 1102; *In re*
 12 *Presidential Corp.*, 180 B.R. 233, 236 (9th Cir. BAP 1995).

13 87. In the present case, as more fully set forth in ¶¶ 80-83 the Diaz
 14 Defendants have no defense to the Trustee's § 549 postpetition avoidance claim.
 15 Pursuant to § 550(a)(1), they are strictly liable *as initial transferees* to return the
 16 avoided transfer, or its value to the bankruptcy estate.

17 **B. Alternatively, Even if the Court Declined to Apply the Remedies of Alter**
 18 **Ego and/or Substantive Consolidation, Kismet is Entitled to Judgment on**
 19 **its Fraudulent Conveyance Action.**

20 1. **The Debtors' transfer of the Villa Property to H&G is avoidable**
 21 **under 11 U.S.C. § 544(a), pursuant to California law.**

22 88. Pursuant to § 544(b)(1), "the trustee may avoid any transfer of an interest
 23 of the debtor in property ... that is voidable under applicable law"

24 89. Under California law, an unsecured creditor may avoid a fraudulent
 25 transfer to the extent necessary to satisfy the creditor's claim. *See* Cal. Civ. Code
 26 §§ 3439.04 and 3439.07. A "transfer" as defined by California law, "means every
 27 mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing
 28 of or parting with an asset or an interest in an asset, and includes payment of money,
 release, lease, and creation of a lien or other encumbrance." Civ. Code § 3439.01(i).

1 An "asset" means unencumbered, non-exempt equity in property of a debtor. Civ.
2 Code § 3439.01(a).

3 90. A transfer is fraudulent and avoidable under California law if the debtor
4 made the transfer or incurred the obligation as follows: "With actual intent to hinder,
5 delay, or defraud any creditor of the debtor." Civ. Code § 3439.04(a)(1).
6 Alternatively, a transfer is otherwise avoidable as a fraudulent transfer if the debtor
7 made the transfer or incurred the obligation without receiving reasonably equivalent
8 in exchange for the transfer or obligation, and the debtor either: (A) was engaged in,
9 or was about to engage in, a business or a transaction for which the remaining assets
10 were unreasonably small in relation to the business or transaction; or (B) intended to
11 incur, or believed or reasonably should have believed that he or she would incur, debts
12 beyond his or her ability to pay. Civ. Code § 3439.04(a)(2).

13 91. Further, in establishing a prima facie case for fraudulent transfer, the
14 plaintiff is required to show that the debtor made the transfer or incurred the
15 obligation within four years of bringing the action, or if later, within one year after the
16 transfer or obligation was or could have reasonably been discovered by the plaintiff.
17 Civ. Code § 3439.09(a).

18 92. There is a clear distinction between the law governing the avoidability
19 of a fraudulent transfer, and the law governing the trustee's recovery of an avoided
20 transfer. Section 550 separates the concepts of *avoiding* a transfer (*i.e.*, the transfer
21 from the Debtors to H&G), and *recovering* from the initial transferee (H&G) or any
22 immediate or mediate transferees of the initial transferee (the Diaz Defendants). *See*
23 *Acequia, Inc.*, 34 F.3d at 809. "[W]hile California law governs whether and to what
24 extent a transfer of property is voidable, the value of the avoided transfer, and
25 therefore, the recovery is governed by § 550(a), irrespective of any recovery
26 limitations imposed by California law." *Brun*, 360 B.R. at 672.

27 93. In this case, the Diaz Defendants acknowledge that the applicable transfer
28 to be *avoided* under § 544(b) and pursuant to California law, is the Debtors' transfer

1 of the Villa Property to H&G in 2002. [Suppl. Trial Brief at 3:6-7, Adv. Proc.
 2 04-90392 at Doc. #496] They acknowledge that the claim against the Diaz
 3 Defendants is one for *recovery* of the avoided transfer pursuant to § 550(a)(2) as a
 4 subsequent transferee of H&G. [*Id.* at page 4:1-4]

5 94. The fraudulent transfer claim is deemed admitted as to H&G. [FF ¶ 49]
 6 The Diaz Defendants dispute the fraudulent transfer claim, but presented no evidence
 7 at trial to show the transfer from Debtors to H&G was *not* fraudulent. [PTO in Adv.
 8 Proc. 04-90392, Remaining Issues of Law ¶ 1] In closing argument, the Diaz
 9 Defendants conceded the Debtors' transfer to H&G was likely a fraudulent transfer.

10 95. There is ample evidence to conclude the Debtors' transfer to H&G is
 11 avoidable both as a constructively fraudulent, and an actually fraudulent transfer.
 12 H&G did not pay any consideration in exchange for the Villa Property, thereby
 13 making the transfer constructively fraudulent. [FF ¶ 16] Additionally, the timing and
 14 circumstances surrounding the transfer show Mr. Icenhower intended the transfer to
 15 be actually fraudulent. [FF ¶¶ 7-21] Finally, there is no dispute as to the timeliness of
 16 the Fraudulent Conveyance Action. [Suppl. Trial Brief at page 3:9-10, Adv. Proc.
 17 04-90392 at Doc. # 496]

18 **2. Recovery of the Villa Property from the Diaz Defendants is**
 19 **permitted pursuant to 11 U.S.C. § 550(a)(2).**

20 96. As more fully set forth in CL ¶¶ 84-85 above, to the extent a transfer is
 21 avoided, § 550(a) of the Bankruptcy Code permits *recovery* of the avoided transfer
 22 or, if the courts so orders, the value of such property, from – (1) the initial transferee
 23 of such transfer or the entity for whose benefit such transfer was made; or (2) any
 24 immediate or mediate transferee of such initial transferee. [CL 86] In the present case,
 25 the Diaz Defendants have asserted the good faith defense in § 550(b) available to a
 26 subsequent transferee of the initial transferee.

27 97. A subsequent transferee asserting the good faith defense must prove all
 28 three elements of that defense: (1) taking a property for value; (2) in good faith; and

(3) without knowledge of the voidability of the transfer avoided. *In re Laguna Beach Motors, Inc.*, 159 B.R. 562, 565-66 (Bankr. C.D. Cal. 1993)(citing *Bonded Financial Svcs., Inc. v. European American Bank*, 838 F.2d 890, 896-97 (7th Cir. 1988). The party asserting this defense bears the burden of proving the validity of the affirmative defense. *Laguna Beach Motors*, 159 B.R. at 566.

98. The Bankruptcy Code does not define the meaning of the phrases “good faith” and “without knowledge of the voidability of the transfer avoided.” *Goodwin*, 115 B.R. at 676. The courts have generally treated the requirements of “good faith” and “lack of knowledge of voidability” synonymously and have looked to whether a transferee had knowledge of the transferor’s unfavorable financial condition, or other circumstances sufficient to lead a reasonable person to investigate the voidability of the transfer, to determine whether the transferee acted in good faith. *In re Smoot*, 265 B.R. 128, 141 (Bankr. E.D. Va. 1999) (a person is not a good faith transferee under § 550(b)(1) if the person has knowledge of the transferor’s unfavorable financial condition at the time of transfer); *Bonded Financial*, 838 F.2d at 897-98 (a recipient of fraudulent transfer lacks good faith if he possessed enough knowledge of the events to induce a reasonable person to investigate); *see also* 5 A. Resnick & H. Sommer, eds., *Collier on Bankruptcy*, ¶ 550.03[2] and [3] at 550-23-25 (15th ed. Rev. 2007) (recognizing the growing body of case law that has applied an objective standard for good faith).

99. The courts within this circuit have adopted the objective standard for good faith enunciated in *Bonded Financial*. *See e.g. In re Richmond Produce Co., Inc.*, 195 B.R. 455, 464 (N.D. Cal. 1996); *Goodwin*, 115 B.R. at 677; *In re Concord Senior Housing Foundation*, 94 B.R. 180, 183 (Bankr. C.D. Cal. 1988) (overruled on other grounds).⁷

⁷ *See Rupp v. Markgraf*, 95 F.3d 936, 943 n. 1 (10th Cir. 1996) (recognizing *Concord Senior Housing* is overruled to the extent it supported the proposition that a corporate principal becomes an initial “transferee” by the mere act of causing the debtor to make a fraudulent transfer).

1 100. Specifically, the district court in *Richmond Produce* rejected the
2 defendant's argument that lack of good faith means "actual knowledge" of the
3 voidability of the transfer by the transferee. The court explained the standard is one
4 of objective good faith:

5 [T]he recipient of a voidable transfer may lack good faith if he
6 possessed enough knowledge of the events to induce a reasonable person
7 to investigate. No one supposes that "knowledge of voidability" means
8 complete understanding of the facts and receipt of a lawyer's opinion that
9 such a transfer is voidable; some lesser knowledge will do. Some facts
10 strongly suggest the presence of others; a recipient that closes its eyes to
11 the remaining facts may not deny knowledge.

12 195 B.R. at 464 (quoting *Bonded Financial*, 838 F.2d at 897-98). The bankruptcy
13 court in *Concord Senior Housing* stated:

14 [A] transferee acts in good faith if it had no facts before it that would
15 cause a reasonable person to investigate whether the transfer would be
16 avoidable. Within the context of a section 549 proceeding, I conclude
17 that if the subsequent transferee knew, or if a reasonable person would
18 suspect, that the initial transfer was an unauthorized one from a
19 bankruptcy estate, then the immediate transferee would not have received
20 the transfer in good faith.

21 94 B.R. at 183.

22 101. Likewise, in considering the meaning of the phrase "without knowledge
23 of the voidability of the transfer avoided," the bankruptcy court in *Goodwin*
24 concluded:

25 It is my view that the transferee must have knowledge of sufficient facts
26 that (i) puts the transferee on notice that the transfer might be avoidable
27 or (ii) requires further inquiry into the situation and such inquiry is likely
28 to lead to the conclusion that the transfer *might* be avoidable.

115 B.R. at 677 (emphasis added).

102. Accordingly, the courts within this circuit reject an "actual knowledge"
standard for § 550(b). They have consistently applied a standard of objective good
faith. This standard examines what the transferee knew or should have known given
the events, and whether it would cause a reasonable person to investigate. If such
investigation would have likely led to the conclusion the transfer *might* be avoidable,

1 then the transferee lacks good faith and knowledge of the voidability of the transfer
2 is imputed to the transferee. A transferee cannot turn a blind eye to factual
3 circumstances that would cause a reasonable person to investigate in order to deny
4 knowledge and claim good faith. *Bonded Financial*, 838 F.2d at 897-98.

5 103. The Court concludes the Diaz Defendants are liable as subsequent
6 transferees pursuant to § 550(a)(2) because they have failed to show they received
7 the transfer from H&G in objective good faith. First, the Court observes this *not* a
8 situation where Mr. Diaz had no reason to question Mr. Icenhower. *Cf. Goodwin*, 115
9 B.R. at 677-78 (transferee had no reason to question any wrongdoing due to past
10 business dealings and family relationship). To the contrary, Mr. Diaz barely knew
11 Mr. Icenhower, and even he concedes their past dealings (unwittingly lending
12 \$100,000 to a bankrupt), would put any reasonable person on heightened enquiry in
13 conducting further business with Mr. Icenhower. [FF ¶¶ 27-32; ¶ 65]

14 104. Second, Mr. Diaz cannot claim he failed to enquire due to lack of
15 sophistication. He is an educated, experienced businessman who has owned companies
16 and served on an audit committee. [See FF ¶ 23] Any reasonable person of similar
17 sophistication who had made the same bad loan would have investigated
18 circumstances surrounding the Debtors' bankruptcy, and enquired into the reason
19 Mr. Icenhower could cause H&G to lower the Villa Property sales price to repay his
20 personal debt. Had Mr. Diaz conducted any enquiry, he would have discovered the
21 district court litigation involved the Villa Property and the Trustee was questioning
22 the Debtors' transfer of the Villa Property to H&G. [FF ¶ 65] Additionally, Mr. Diaz
23 would have discovered what he likely already knew, that Mr. Icenhower had
24 fraudulently transferred the Villa Property to H&G to keep it away from the Lonies.

25 105. Third, there were many other "red flags" that should have caused
26 Mr. Diaz, and any other reasonable person in his shoes, to investigate the voidability
27 of the transfer to H&G. [See FF ¶¶ 60-61] The Diaz Defendants and their attorney
28 Mr. Sanchez closed their eyes to these "red flags" to avoid actual knowledge. Their

1 own Mexican law expert (Prof. Vargas) conceded that, given the cross-border nature
2 of this transaction, a heightened level of due diligence was required. [FF ¶ 57;
3 ¶¶ 61-63] Had any heightened enquiry been made, the Diaz Defendants would have
4 learned what they likely already knew, that H&G was a shell entity controlled by
5 Mr. Icenhower.

6 106. Finally, the Court finds the Diaz Defendants cannot possibly be good
7 faith transferees because, prior to closing of the Villa Property transaction, Mr. Diaz
8 actually knew the Debtors' transfer of the Villa Property to H&G *might* be voidable
9 by the Trustee. Mr. Icenhower is one hundred percent certain he disclosed this
10 information to "hurry up" Mr. Diaz's decision to purchase the Villa Property while the
11 title in Mexico remained clear. [FF ¶¶ 66-67] Mr. Diaz denies knowledge, but other
12 facts suggest this was likely the case. [FF ¶ 60, ¶ 67] Mr. Diaz proceeded with the
13 Villa Property transaction because he believed the clear title in the Mexican Public
14 Registry would defeat the Trustee. Having made the conscious decision to "hurry up"
15 the transfer to defeat the Trustee, the Diaz Defendants cannot be good faith
16 transferees.

17 107. Because the Diaz Defendants are not good faith transferees, Kismet is
18 entitled to recover for the benefit of the estate, either the Villa Property or its value at
19 the time of judgment from any combination of the transferees, subject to the limitation
20 of a single satisfaction set forth in § 550(d). [CL ¶¶ 84-85] The Diaz Defendants
21 cannot complain about the inequities of being ordered to return their cherished
22 vacation home to the estate when the evidence shows they are renting to the public.
23 [FF ¶ 26] Moreover, the equities favor an order directing the return of the Villa
24 Property where it appears Mr. Diaz conspired with Mr. Icenhower to use the clear title
25 in Mexico to defeat the Trustee. *See Straightline Investments*, 2008 WL at * 9
26 (requiring return of wrongfully transferred property to the estate was proper course of
27 action where defendant was aware of the bankruptcy and conspired with Debtor's
28 president to transfer the property).

1 108. The Court makes no legal conclusion concerning whether its consolidated
2 judgment in these actions is enforceable in Mexico. As this Court has previously
3 ruled, it has subject matter jurisdiction over claims to avoid and recover the wrongful
4 transfer of the Debtors' interest in the *fideicomiso* trust, and it has *in personam*
5 jurisdiction over each of the Defendants in these actions to *order them to execute the*
6 *necessary conveyance documents* to return the Villa Property to the estate, subject to
7 enforcement through this Court's contempt powers, even though it indirectly affects
8 title to real property in Mexico. [PTO in Adv. Proc. 06-90369, Doc. # 191, Judicially
9 Noticeable Facts ¶ 5]; *see also Fall v. Eastin*, 215 U.S. 1, 9-12 (1909) (recognizing
10 that a court of equity, having authority to act upon the person, may indirectly act upon
11 real estate in another jurisdiction, and even in a foreign country, through the
12 instrumentality of its authority over the person); A. Ahart, *Cal. Prac. Guide: Enf. J.*
13 *& Debts*, Ch. 6, ¶ 6:1849.9 (The Rutter Group 2008).

14 109. Any findings of facts which may be considered a conclusion of law shall
15 be deemed a conclusion of law. Any conclusions of law which may be considered a
16 findings of facts shall be deemed a findings of facts. A separate judgment is filed
17 concurrently with these findings.

18
19
20 Dated: 2 June 08


LOUISE DE CARL ADLER, Judge

CAD 168
[Revised July 1985]

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

Case No. 03-11155-A7
Adv. No. 06-90369-A7
Adv. No. 04-90392-A7
Case Name: In Re: JERRY L. ICENHOWER dba Seaview
Properties, et al.

CERTIFICATE OF MAILING

The undersigned, a regularly appointed and qualified clerk in the Office of the United States Bankruptcy Court for the Southern District of California, at San Diego, hereby certifies that a true copy of the attached document, to-wit:

CONSOLIDATED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

was enclosed in a stamped and sealed envelope and mailed to the following parties at their respective addresses listed below:

Stephen B. Morris, Esq.
Mark C. Hinkley, Esq.
MORRIS AND ASSOCIATES
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The envelope(s) containing the above document was deposited in a regular United States mail box in the City of San Diego in said district on June 2, 2008.

CAD 168

 , Deputy Clerk
Roma London

CSD 3000A [11/15/04]

Name, Address, Telephone No. & I.D. No.

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UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re JERRY LEE ICENHOWER dba Seaview Properties, and
DONNA LEE ICENHOWER

Debtor.

KISMET ACQUISITION, LLC,

Plaintiff(s)

v.

JERRY L. ICENHOWER an individual; et al.

Defendants(s)



Order Entered on
July 28, 2008
by Clerk U.S. Bankruptcy Court
Southern District of California

BANKRUPTCY NO. 03-11155-LA-7

ADVERSARY NO. 04-90392-LA and 06-90369-LA

Date of Hearing: July 24, 2008

Time of Hearing: 10:30 a.m.

Name of Judge: Hon. Louise DeCarl Adler

ORDER ON MOTION TO ALTER OR AMEND CONSOLIDATED JUDGMENT

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 2 with exhibits, if any, for a total of 2 pages, is denied in part and granted in part. Motion/Application Docket Entry No. (Docket No. 505 in Adversary Proceeding 04-90392; Docket Entry No. 214 in Adversary Proceeding 06-90369).

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DATED: July 29, 2008

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

Baker & McKenzie LLP

(Firm name)

By: /s/ Ali M.M. Mojdehi

Attorney for ☒ Plaintiff ☐ Defendant

Kismet Acquisition, LLC

CSD 3000A

SDODMS1/691893.1

Louise DeCarl Adler
Judge, United States Bankruptcy Court

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EXHIBIT C

CSD 3000A [11/15/04] (Page 2)

ORDER ON MOTION TO ALTER OR AMEND CONSOLIDATED JUDGMENT

CASE NO: 03-11155-LA-7

DEBTOR: JERRY LEE ICENHOWER dba Seaview Properties, and DONNA LEE ICENHOWER
ADV. NO.: 04-90392-LA and 06-90369-LA

WHEREAS Defendants' Motion to Alter or Amend the Consolidated Judgment ("Motion") came on regularly for hearing at 10:30 a.m. on July 24, 2008 in Department 2 of the above-entitled Court before the Hon. Louise DeCarl Adler, and After having considered the parties' arguments and reviewed all of the papers submitted by the parties in support and in opposition, and for good cause appearing,

IT IS HEREBY ORDERED that

1. The Consolidated Judgment is amended as set forth in Exhibit "A" attached hereto ("Amended Consolidated Judgment"). A blackline version showing the changes made to the Consolidated Judgment dated June 2, 2008 (Docket No. 504 in Adversary Proceeding 04-90302; Docket Entry No. 213 in Adversary Proceeding 06-90369) is set forth at Exhibit "B" hereto.

2. All other relief requested in the Motion is denied.

IT IS SO ORDERED.

EXHIBIT A

Signed by Judge Louise DeCarl Adler July 29, 2008

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

In re:

Case No. 03-11155-A7

**JERRY L. ICENHOWER dba
Seaview Properties, and DONNA L.
ICENHOWER,**

Adv. No. 06-90369-A7
Adv. No. 04-90392-A7

Debtors.

**KISMET ACQUISITION, LLC, a
Delaware limited liability company,
Successor-in-interest to Gerald H.
Davis, Chapter 7 Trustee,**

AMENDED CONSOLIDATED JUDGMENT

Plaintiff,

v.

**JERRY L. ICENHOWER, an
individual; et al.**

Defendants.

The consolidated trials of adversary proceedings 04-90392 and 06-90369 were heard from April 21 to April 25, 2008 before the Honorable Louise DeCarl Adler. Janet D. Gertz and Ali M.M. Mojdehi appeared on behalf of plaintiff, Kismet Acquisition, LLC, successor-in-interest to Gerald H. Davis, the Chapter 7 Trustee ("Plaintiff"), and Stephen B. Morris and Mark C. Hinkley appeared on behalf of defendants Alejandro Diaz Barba and Martha Margarita Barba De La Torre (aka

Signed by Judge Louise DeCarl Adler July 29, 2008

1 Martha Barba Diaz) (the "Diaz Defendants). No appearances were made on behalf
 2 of defendants Howell & Gardner Investors, Inc. ("H&G"), and Jerry and Donna
 3 Icenhower ("Debtors") (hereinafter the Diaz Defendants, H&G and Debtors are
 4 collectively the "Defendants").

5 Witnesses were sworn in and examined, documentary evidence was introduced
 6 on behalf of the parties and the case was argued by counsel for both the Plaintiff and
 7 the Diaz Defendants. Having carefully considered the testimony of the witnesses and
 8 arguments of counsel and the Court having made findings of fact and conclusions of
 9 law on the record in open court and the Court having entered separate Findings of Fact
 10 and Conclusions of Law concurrently herewith, and other good cause:

11 IT IS HEREBY ORDERED that:

12 1. Judgment is entered in favor of Plaintiff and against the Defendants on the
 13 complaint in adversary proceeding 06-90369. It is hereby adjudged and decreed that --

14 (a) H&G is the alter ego of the Debtors *nunc pro tunc* to the petition
 15 date;

16 (b) The assets of H&G are hereby substantively consolidated with the
 17 assets of the bankruptcy estate *nunc pro tunc* to petition date;

18 (c) the property called the Villa Vista Hermosa, located in the Village
 19 of Chamela in the Municipality of La Huerta, State of Jalisco, Mexico (the
 20 "Villa Property")¹ is property of the bankruptcy estate pursuant to 11
 21 U.S.C. § 541(a) *nunc pro tunc* to the petition date;

22 (d) The Debtors' unauthorized postpetition transfer of the Villa Property
 23 to H&G is avoided pursuant to 11 U.S.C. 549(a);

24 (e) Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C.
 25 § 550(a)(1) and § 551 the Villa Property from the Diaz Defendants as

26
 27 ¹ Under Mexican law, a foreign national may not directly hold title to coastal real property in Mexico, but may hold the
 28 beneficial interest in a *fideicomiso* bank trust formed to hold title to the real property. Hereinafter, unless otherwise
 specified, all references to the transfer or sale of the Villa Property refer to the transfer or sale of the beneficial trust
 interest.

1 the initial transferees of the avoided postpetition transfer. Within ten days
 2 of entry of this judgment, Defendants are hereby ordered and directed to
 3 take all actions necessary to execute and deliver any and all documents
 4 needed to undo the avoided transfer, and to take all actions necessary to
 5 cause the property to be reconveyed to a *fideicomiso* trust naming Plaintiff
 6 as the sole beneficiary for the benefit of the bankruptcy estate; or
 7 (f) alternatively, at Plaintiff's sole option made upon proper noticed
 8 motion, the Court reserves jurisdiction to enter a monetary judgment in
 9 favor of Kismet, and against Defendants, in an amount necessary to
 10 make the estate whole at the time of judgment.

11 2. Alternatively, even if the Villa Property is not property of the bankruptcy
 12 estate *nunc pro tunc* to the petition date, judgment is entered in favor of Plaintiff and
 13 against the Defendants on the remaining claims in the amended complaint in adversary
 14 proceeding 04-90392. It is hereby adjudged and decreed that-

15 (a) the Debtors' transfer of the Villa Property to H&G is avoided as a
 16 fraudulent transfer under 11 U.S.C. § 544(b), pursuant to Cal. Civ.
 17 Code §§ 3439.04(a)(1) and (a)(2) and § 3439.07;

18 Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C. §§
 19 550(a)(1) and (a)(2) and § 551 the avoided fraudulent transfer from H&G
 20 as the initial transferee of the avoided fraudulent transfer, and from the
 21 Diaz Defendants as the "immediate or mediate" transferees of the initial
 22 transferee. Within ten days of entry of this judgment, Defendants are

23 hereby ordered and directed to execute and deliver any and all documents
 24 needed to undo the avoided transfer, and to take all actions necessary to
 25 cause the property to be reconveyed to a *fideicomisto* trust naming
 26 Plaintiff as the sole beneficiary for the benefit of the bankruptcy estate; or

27 (b) alternatively, at Plaintiff's sole option made upon proper noticed
 28 motion, the Court retains jurisdiction to enter a monetary judgment in

1 favor of Kismet, and against Defendants, in an amount necessary to make
2 the estate whole at the time of judgment.

3 3. The Court reserves for future determination made upon proper motion the
4 issues of an award of fees and expenses, and it reserves jurisdiction to issue any and
5 all orders necessary to carry out and enforce this judgment.

6
7 Dated: _____

8 LOUISE DE CARL ADLER, Judge
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EXHIBIT B

Signed by Judge Louise DeCarl Adler July 29, 2008

1 Martha Barba Diaz) (the "Diaz Defendants). No appearances were made on behalf
 2 of defendants Howell & Gardner Investors, Inc. ("H&G"), and Jerry and Donna
 3 Icenhower ("Debtors") (hereinafter the Diaz Defendants, H&G and Debtors are
 4 collectively the "Defendants").

5 Witnesses were sworn in and examined, documentary evidence was introduced
 6 on behalf of the parties and the case was argued by counsel for both the Plaintiff and
 7 the Diaz Defendants. Having carefully considered the testimony of the witnesses and
 8 arguments of counsel and the Court having made findings of fact and conclusions of
 9 law on the record in open court and the Court having entered separate Findings of Fact
 10 and Conclusions of Law concurrently herewith, and other good cause:

11 IT IS HEREBY ORDERED that:

12 1. Judgment is entered in favor of Plaintiff and against the Defendants on the
 13 complaint in adversary proceeding 06-90369. It is hereby adjudged and decreed
 14 that --

15 (a) H&G is the alter ego of the Debtors *nunc pro tunc* to the petition
 16 date;

17 (b) The assets of H&G are hereby substantively consolidated with the
 18 assets of the bankruptcy estate *nunc pro tunc* to petition date;

19 (c) the real-property called the Villa Vista Hermosa, located in the
 20 Village of Chamela in the Municipality of La Huerta, State of Jalisco,
 21 Mexico (the "Villa Property")¹ is property of the bankruptcy estate
 22 pursuant to 11 U.S.C. § 541(a) *nunc pro tunc* to the petition date;

23 (d) The Debtors' unauthorized postpetition transfer of the Villa Property
 24 to H&G is avoided pursuant to 11 U.S.C. 549(a);

25
 26
 27 ¹ Under Mexican law, a foreign national may not directly hold title to coastal real property in Mexico, but may hold the
 28 beneficial interest in a *fideicomiso* bank trust formed to hold title to the real property. Hereinafter, unless otherwise
 specified, all references to the transfer or sale of the Villa Property refer to the transfer or sale of the beneficial trust
 interest.

(e) Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C. § 550(a)(1) and § 551 the Villa Property from the Diaz Defendants as the initial transferees of the avoided postpetition transfer. Within ~~ten~~thirty days of entry of this judgment, Defendants are hereby ordered and directed to take all actions necessary to execute and deliver any and all documents needed to undo the avoided transfer, and to take all actions necessary to cause the property to be reconveyed to a *fideicomiso* trust naming Plaintiff as the sole beneficiary for the benefit of the bankruptcy estate; or

(f) alternatively, at Plaintiff's sole option made upon proper noticed motion, the Court reserves jurisdiction to enter a monetary judgment in favor of Kismet, and against Defendants, in an amount necessary to make the estate whole at the time of judgment.

2. Alternatively, even if the Villa Property is not property of the bankruptcy estate *nunc pro tunc* to the petition date, judgment is entered in favor of Plaintiff and against the Defendants on the remaining claims in the amended complaint in adversary proceeding 04-90392. It is hereby adjudged and decreed that-

(a) the Debtors' transfer of the Villa Property to H&G is avoided as a fraudulent transfer under 11 U.S.C. § 544(b), pursuant to Cal. Civ. Code §§ 3439.04(a)(1) and (a)(2) and § 3439.07;

(~~b~~) Plaintiff is entitled to recover and preserve pursuant to 11 U.S.C. §§ 550(a)(1) and (a)(2) and § 551 the avoided fraudulent transfer from H&G as the initial transferee of the avoided fraudulent transfer, and from the Diaz Defendants as the "immediate or mediate" transferees of the initial transferee. Within ~~ten~~thirty days of entry of this judgment, Defendants are hereby ordered and directed to execute and deliver any and all documents needed to undo the avoided transfer, and to take all actions necessary to

1 cause the property to be reconveyed to a *fidelcomisto* trust naming
2 Plaintiff as the sole beneficiary for the benefit of the bankruptcy estate; or

3 ~~+++~~

4 ~~+++~~

5 ~~(e)(b)~~ alternatively, at Plaintiff's sole option made upon proper noticed
6 motion, the Court retains jurisdiction to enter a monetary judgment in
7 favor of Kismet, and against Defendants, in an amount necessary to make
8 the estate whole at the time of judgment.

9 3. The Court reserves for future determination made upon proper motion the
10 issues of an award of fees and expenses, and it reserves jurisdiction to issue any and
11 all orders necessary to carry out and enforce this judgment.

12
13 Dated: _____

14 LOUISE DE CARL ADLER, Judge
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Stephen B. Morris (SBN 126192)
 Mark C. Hinkley (SBN 138759)
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 Telephone: 619.239-1900

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 Kendra J. Hall (Bar No. 166836)
 PROCOPIO, CORY, HARGREAVES &
 SAVITCH LLP
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 San Diego, California 92101
 Telephone: 619.238.1900
 Facsimile: 619.235.0398

Attorneys for Defendants Alejandro Diaz-Barba and
 Martha Margarita Barba de la Torre

UNITED STATES BANKRUPTCY COURT
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

In re:

JERRY LEE ICENHOWER dba Seaview
 Properties, and DONNA LEE ICENHOWER,

Debtors

KISMET ACQUISITION, LLC.,

Plaintiff,

v.

JERRY L. ICENHOWER dba Seaview Properties,
 and DONNA L. ICENHOWER fka DONNA L.
 HAWKS; et al.,

Defendants.

Case No. 03-11155-LA7

Chapter 7

Adv. Proc. No.: 06-90369

Adv. Proc. No.: 04-90392

PROOF OF SERVICE

Date: None Set

Time: None Set

Dept: 2

Judge: Hon. Louise DeCarl Adler

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is PROCOPIO, CORY, HARGREAVES & SAVITCH LLP, 530 "B" Street, Suite 2100, San Diego, California 92101. On August 6, 2008, I served the within documents:

NOTICE OF APPEAL

Bk. No. 03-11155-LA7
 Adv. Proc. No. 06-90369; 04-90392

1 ☐ by transmitting via facsimile number (619) 235-0398 the document(s) listed above to the
2 fax number(s) set forth below on this date before 5:00 p.m.

3 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully
4 prepaid, in the United States mail at San Diego, California addressed as set forth below. I
5 am readily familiar with the firm's practice of collection and processing correspondence
6 for mailing. Under that practice it would be deposited with the U.S. Postal Service on the
7 same day with postage thereon fully prepaid in the ordinary course of business. I am
8 aware that on motion of the party served, service is presumed invalid if postal
9 cancellation date or postage meter date is more than one day after date of deposit for
10 mailing an affidavit.

11 ☐ by placing the document(s) listed above in a sealed overnight envelope and depositing it
12 for overnight delivery at San Diego, California, addressed as set forth below. I am
13 readily familiar with the practice of this firm for collection and processing of
14 correspondence for processing by overnight mail. Pursuant to this practice,
15 correspondence would be deposited in the overnight box located at 530 "B" Street, San
16 Diego, California 92101 in the ordinary course of business on the date of this declaration.

17 ☐ by causing personal delivery via Knox Attorney Service, Inc., c/o their affiliate, of the
18 documents listed above to the person at the address set forth below.

19 Ali M.M. Mojdehi, Esq.
20 Baker & McKenzie LLP
21 12544 High Bluff Drive, Third Floor
22 San Diego, CA 92130

23 David Ortiz
24 Jaeji Jong
25 Office of the U.S. Trustee
26 Southern District of California
27 402 West Broadway, Suite 600
28 San Diego, CA 92101

Gerald H. Davis
P.O. Box 2850
Palm Springs, CA 92263

Gary B. Rudolph, Esq.
Sparber Rudolph Annen APLC
701 B Street, Suite 1000
San Diego, CA 92101

Jerry L. Icenhower
684 Margarita Avenue
Coronado, CA 92118

Donna L. Icenhower
684 Margarita Avenue
Coronado, CA 92118

Ronald White
762 W. El Segundo Blvd.
Gardena, CA 90247

Stephen B. Morris, Esq.
Morris & Associates
444 West C Street, Suite 200
San Diego, CA 92101

D. Anthony Gaston, Esq.
Corporate Center
550 West C. Street, Suite 700
San Diego, CA 92101

25 ☐ (State) I declare under penalty of perjury under the laws of the State of California that
26 the above is true and correct.

27 ☒ (Federal) I declare that I am employed in the office of a member of the bar of this court
28 at whose direction the service was made.

1 Executed on August 6, 2008, at San Diego, California.

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/s/ Christine A. Waltman

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8/7/08

1 Ali M.M. Mojdehi, State Bar No. 123846
Janet D. Gertz, State Bar No. 231172
2 **BAKER & McKENZIE LLP**
12544 High Bluff Drive, Third Floor
3 San Diego, CA 92130-3051
Telephone: +1 858-523-6200

4 Attorneys for Plaintiff
5 KISMET ACQUISITION, LLC

6
7
8 UNITED STATES BANKRUPTCY COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 In re

12 JERRY LEE ICENHOWER dba Seaview
13 Properties, and DONNA LEE ICENHOWER,
14 Debtors.

15 KISMET ACQUISITION, LLC,
16 Plaintiff,

17 v.

18 JERRY L. ICENHOWER an individual; et al.
19 Defendants.
20

Case No. 03-11155-LA-7

Chapter Number 7

Adv. Proc. No: 04-90392
Adv. Proc. No. 06-90369

**ELECTION BY APPELLEE KISMET
ACQUISITION, LLC, TO HAVE
APPEAL HEARD BY DISTRICT
COURT**

DATE: N/A
TIME N/A
DEPT: 2
JUDGE: Hon. Louise DeCarl Adler

21 Plaintiff and Appellee, Kismet Acquisition LLC ("Kismet"), respectfully elects pursuant to
22 28 U.S.C. §158(c)(1)(B) to have the Diaz Defendants' appeal taken from the Amended Consolidated
23 Judgment entered July 30, 2008 in the above adversary proceedings heard by the United States
24 District Court, Southern District of California.

25 ///

26 ///

27 ///

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1 Respectfully submitted,

2
3 Dated: August 7, 2008

BAKER & McKENZIE LLP

4
5 By: /s/ Ali M.M. Mojdehi

Ali M.M. Mojdehi

Janet D. Gertz

6
7 Attorneys for Plaintiff
Kismet Acquisition, LLC, a Delaware
limited liability company
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1 Ali M.M. Mojdehi, State Bar No. 123846
2 Janet D. Gertz, State Bar No. 231172
3 **BAKER & MCKENZIE LLP**
4 12544 High Bluff Drive, Third Floor
5 San Diego, CA 92130
6 Telephone: +1 858 523 6200

7
8 Attorneys for Plaintiff
9 KISMET ACQUISITION, LLC

10 UNITED STATES BANKRUPTCY COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 In re JERRY LEE ICENHOWER dba Seaview
13 Properties, and DONNA LEE ICENHOWER,

14 Debtors.

15 KISMET ACQUISITION, LLC, SUCCESSOR
16 IN INTEREST TO GERALD H. DAVIS,
17 CHAPTER 7 TRUSTEE,

18 Plaintiff,

19 vs.

20 JERRY L. ICENHOWER dba SEAVIEW
21 PROPERTIES, and DONNA L. ICENHOWER
22 fka DONNA L. HAWKS; et al.

23 Defendants.

Case No. 03-11155-LA-7

Chapter Number 7

Adv. Proc. No: 04-90392 and 06-90369

CERTIFICATE OF SERVICE

DEPT: 2

JUDGE: Hon. Louise DeCarl Adler

24 I, Terri L. Mayo, hereby declare as follows:

25 I am employed in the City and County of San Diego, California. I am over the age of
26 18 years and not a party to the within action. My business address is 12544 High Bluff Drive, Third
27 Floor, San Diego, CA 92130.

28 On August 7, 2008, by electronic e-mail, CM/ECF Notice of Electronic Filing, and/or
U.S. Mail, as indicated on the attached Service List, the following was served:

**1. ELECTION BY APPELLEE KISMET ACQUISITION, LLC, TO HAVE
APPEAL HEARD BY DISTRICT COURT**

on the parties in this action by placing a true copy thereof in a sealed envelope(s), addressed as
follows:

1 **SEE ATTACHED SERVICE LIST**

2 ☒ (BY U.S. MAIL) I placed each such sealed, prepaid envelope, for collection and mailing at
3 Baker & McKenzie LLP, San Diego, California, following ordinary business practices. I
4 am familiar with the practice of collection for U.S. mail, said practice being that in the
5 ordinary course of business, correspondence is picked up at our office the same day as it is
6 placed for collection. I am aware that on motion of the party served, service is presumed
7 invalid if postal cancellation date or postage meter date is more than one day after date of
8 deposit for mailing in affidavit.

9 ☐ (BY FEDERAL EXPRESS) I placed each such sealed envelope, to be collected at Baker &
10 McKenzie, San Diego, California, following ordinary business practices. I am familiar with
11 the practice of Baker & McKenzie for collection and processing of overnight packages, said
12 practice being that in the ordinary course of business, overnight packages are picked up by
13 a representative of that company to be sent that same day.

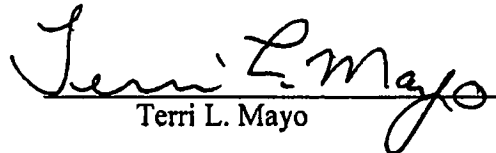
14 ☐ (BY FACSIMILE) Pursuant to agreement of counsel and California Rules of Court, Rule
15 2006, I transmitted the above documents by facsimile to the referenced facsimile
16 number(s). The facsimile machine I used complied with Rule 2003 and no error was
17 reported by the machine. Pursuant to Rule 2006, I caused the machine to print a
18 transmission record of the transmission, a copy of which is attached to this declaration.

19 ☒ [BY ELECTRONIC MAIL ("E-MAIL") VIA PDF/ADOBE] I caused such documents to be
20 sent via e-mail to the below-listed names (as noted) and e-mail addresses and received
21 confirmation electronic receipts indicating that this document was successfully transmitted
22 to the parties named on the service list. *As indicated on service list with an e-mail address.*

23 ☒ [BY CM/ECF NOTICE OF ELECTRONIC FILING] I caused said document(s) to be served
24 by means of this Court's electronic transmission of the Notice of Electronic Filing through
25 the Courts transmission facilities, to the parties and/or counsel who are registered CM/ECF
26 Users set forth in the service list obtained from this Court.

27 ☐ (BY PERSONAL SERVICE) I caused such documents to be delivered by hand to the
28 addressee as indicated on the service list, by First Legal Support Services, 1111 6th Avenue,
Suite 204, San Diego, CA 92101.

29 I declare under penalty of perjury under the laws of the United States of America that
30 the above is true and correct. Executed on August 7, 2008, at San Diego, California.

31 
32 Terri L. Mayo

Kismet Acquisition, LLC v. Jerry L. Icenhower**Adversary Proceeding No. 04-90392-LA and 06-90369****Service List**

David Ortiz Jaeji Hong Office of the U.S. Trustee Southern District of California 402 West Broadway, Suite 600 San Diego, CA 92101	Fax: (619) 557-5339 ustp.region15@usdoj.gov SERVED VIA E-MAIL AND U.S. MAIL
Stephen B. Morris Mark C. Hinkley Morris and Associates 444 West C Street, Suite 300 San Diego, CA 92101	Counsel for Alejandro Diaz Barba and Martha Diaz Tel: (619) 239-1300 Fax: (619) 234-3672 morris@sandiegolegal.com SERVED VIA E-MAIL AND U.S. MAIL
Kendra J. Hall Geraldine A. Valdez Procopio, Cory, Hargreaves & Savitch LLP 530 B Street, Suite 2100 San Diego, CA 92101	Tel: (619) 238-1900 Fax: (619) 235-0398 E-mail: kjh@procopio.com gav@procopio.com SERVED VIA E-MAIL, CM/ECF AND U.S. MAIL
Ronald White 762 W. El Segundo Blvd. Gardena, CA 90247	Counsel for Craig Kelley ronaldwhite4798@sbcglobal.net SERVED VIA E-MAIL AND U.S. MAIL
Gerald H. Davis P.O. Box 2850 Palm Springs, CA 92263	Chapter 7 Trustee Tel: (619) 522-2949 SERVED VIA E-MAIL AND U.S. MAIL
Karen R. Frostrom, Esq. Thornes Bartolatta & McGuire 2550 Fifth Avenue, Suite 1100 San Diego, CA 92103	frostrom@tbmlawyers.com SERVED VIA E-MAIL AND U.S. MAIL
Jerry L. Icenhower 684 Margarita Avenue Coronado, CA 92118	Defendant, Pro se Tel: (619) 435-2757 jicenho@yahoo.com SERVED VIA E-MAIL AND U.S. MAIL
Donna L. Icenhower 684 Margarita Avenue Coronado, CA 92118	Defendant, Pro se Tel: (619) 435-2757 U.S. MAIL
COURTESY COPY TO:	
Omar Bakari Law Offices of Omar Bakari 6100 Wilshire Blvd., Suite 211 Los Angeles, CA 90048	Tel: (323) 296-7700 obakari@yahoo.com SERVED VIA E-MAIL AND U.S. MAIL
D. Anthony Gaston Law Offices of D. Anthony Gaston 550 West C Street, Suite 700 San Diego, CA 92101	Tel: (619) 234-3103 Fax: (619) 234-3223 E-mail: daglaw@sbcglobal.net SERVED VIA E-MAIL AND U.S. MAIL

FILE COPY

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA**

325 West F Street, San Diego, California 92101-6991

(619) 557-5620

FAX: (619) 557-5536

TRANSMITTAL MEMORANDUM

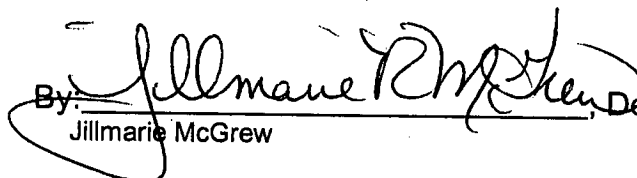
To: UNITED STATES DISTRICT COURT
880 Front Street, Suite 4290
San Diego, California 92101

From: BARRY K. LANDER, Clerk District/Office No. 974-3

CASE NAME Jerry Lee Icenhower and Donna Lee Icenhower		BANKRUPTCY NO. 03-11155-LA7	
		ADVERSARY NO. 04-90392-LA7	
		APPEAL NO. 2	
		BANKRUPTCY JUDGE Louise DeCarl Adler	
		DATE BANKRUPTCY FILED 12/15/03	
DATE OF ENTRY OF APPEALED ORDER: 6/2/08, 6/2/08, 7/30/08 (3 Orders)	NOTICE OF APPEAL FILED ON: 8/6/08	FEE PAID: YES	NOTICE OF REFERRAL TO USDC MAILED ON: August 8, 2008

DATED: August 8, 2008

Barry K. Lander, Clerk

By:  Deputy Clerk
Jillmarie McGrew

Answer, MiscTick, Appeal, Dismissed, AwaitClo, Exhibits

**U.S. Bankruptcy Court
Southern District of California (San Diego)
Adversary Proceeding #: 04-90392-LA
Internal Use Only**

Assigned to: Judge Louise DeCarl Adler
Related BK Case: 03-11155
Related BK Title: Jerry L. Icenhower and Donna L. Icenhower
Related BK Chapter: 7
Demand:
Nature[s] of Suit: 454 Recover Money/Property

Date Filed: 08/23/04
Date Dismissed: 12/28/07

Plaintiffs

Kismet Acquisition, LLC, a Delaware limited liability company

represented by **Baker & McKenzie LLP**
101 West Broadway, 12th floor
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Janet D. Gertz
Baker & McKenzie LLP
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San Diego, CA 92130
858 523 6200
Email: Janet.D.Gertz@BakerNet.com

Kismet Acquisition, LLC

represented by **Ali M.M. Mojdehi**
(See above for address)
Janet D. Gertz
(See above for address)

V.

Defendant

Jerry L. Icenhower
684 Margarita Avenue
Coronado, CA 92118
SSN: 275-38-8611

represented by **Jerry L. Icenhower**
PRO SE

dba
Seaview Properties
Donna L. Icenhower
684 Margarita Avenue

represented by
Donna L. Icenhower

Coronado, CA 92118
SSN: 553-04-0222

PRO SE

fka

Donna L. Hawks

Howell & Gardner Investors, Inc., a Nevada corporation

2533 North Carson Street
Carson City, NV 89706

Robert Miller, an individual

represented by **Robert L. Rentto**

Law Offices Of Robert L. Rentto
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(619) 238-1002
LEAD ATTORNEY

Alejandro Diaz Barba

represented by **Geraldine A. Valdez**

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619-238-1900
Email: gav@procopio.com

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(619)239-1300
Fax : (629) 234-3672
LEAD ATTORNEY

Martha Diaz

represented by **Alan Vanderhoff**

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D. Anthony Gaston
D. Anthony Gaston, Attorney at Law
550 West C Street, Suite 700
San Diego, CA 92101
(619) 234-3103
LEAD ATTORNEY

Geraldine A. Valdez
(See above for address)

Craig Kelley, an individual

represented by **Ronald White**

762 W. El Segundo Blvd.
Gardena, CA 90247
Email: ronaldwhite@sandiegolegal.com
LEAD ATTORNEY

Johnstown Enterprises, LLC, a Nevada limited liability company

represented by **Johnstown Enterprises, LLC, a Nevada limited liability company**
PRO SE

Buckeye International Funding, Inc., a Nevada corporation

represented by **Buckeye International Funding, Inc., a Nevada corporation**
PRO SE

Western Financial Assets, Inc., a Nevada corporation

represented by **Western Financial Assets, Inc., a Nevada corporation**
PRO SE

Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz,

represented by **Stephen B. Morris**
Law Offices Of Stephen B. Morris
3111 Camino Del Rio North, Suite 405

Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz

DOES 1 through 50, inclusive

San Diego, CA 92108
(619) 528-2206

represented by **DOES 1 through 50, inclusive**
PRO SE

Columbus Enterprises, LLC, a Nevada limited liability company, *Dismissed*
c/o Manager Jerry Icenhower
5348 Vegas Dr
Las Vegas, NV 89108

represented by **Columbus Enterprises, LLC, a Nevada limited liability company**
PRO SE

Newark Enterprises, LLC, a Nevada limited liability company, *Dismissed*
c/o Manager Jerry L. Icenhower
5348 Vegas Dr
Las Vegas, NV 89108

represented by **Newark Enterprises, LLC, a Nevada limited liability company**
PRO SE

Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee

represented by **Robert L. Rentto**
Law Offices Of Robert L. Rentto
110 West "C" Street, Suite 150
MAIL RETURN
San Diego, CA 92101
(619) 238-1002

3rd Party Defendant

Kismet Acquisition II, LLC, a Delaware limited liability corporation

Axolotl S.A., a Mexican corporation

Wolfgang Hahn

Dieter Hahn

represented by **Ali M.M. Mojdehi**
(See above for address).

3rd Party Plaintiff

Alex Diaz

represented by **Malte L. Farnaes**
Ross, Dixon & Bell, LLP
550 West "B" Street, Suite 400
San Diego, CA 92101-3599
(619) 235-4040
Fax : (619) 231-8796
LEAD ATTORNEY

Martha Diaz

represented by **Malte L. Farnaes**
(See above for address)
LEAD ATTORNEY

Counter-Claimant

Alejandro Diaz Barba

represented by **Malte L. Farnaes**
(See above for address)
LEAD ATTORNEY

Martha Diaz

represented by **Malte L. Farnaes**
(See above for address)
LEAD ATTORNEY

V.

Counter-Defendant

Kismet Acquisition, LLC

represented by **Ali M.M. Mojdehi**
(See above for address)

V.

3rd Party Defendant

Alejandro Diaz Barba

Buckeye International Funding, Inc., a Nevada corporation

represented by **Buckeye International Funding, Inc., a Nevada corporation**
PRO SE

Columbus Enterprises, LLC, a Nevada limited liability company

represented by **Columbus Enterprises, LLC, a Nevada limited liability company**
PRO SE

DOES 1 through 50, inclusive

represented by **DOES 1 through 50, inclusive**
PRO SE

Howell & Gardner Investors, Inc., a Nevada corporation

2533 North Carson Street
Carson City, NV 89711

Donna L. Icenhower
684 Margarita Avenue
Coronado, CA 92118
SSN: 553-04-0222

represented by **Donna L. Icenhower**
PRO SE

(See above for address)

Jerry L. Icenhower
684 Margarita Avenue
Coronado, CA 92118
SSN: 275-38-8611

represented by **Jerry L. Icenhower**
PRO SE

(See above for address)

Johnstown Enterprises, LLC, a Nevada limited liability company

represented by **Johnstown Enterprises, LLC, a Nevada limited liability company**
PRO SE

Craig Kelley, an individual

Newark Enterprises, LLC, a Nevada limited liability company

represented by **Newark Enterprises, LLC, a Nevada limited liability company**
PRO SE


Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee

Western Financial Assets, Inc., a Nevada corporation

represented by **Western Financial Assets, Inc., a Nevada corporation**
PRO SE

3rd Party Plaintiff

Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz

Filing Date	#	Docket Text
08/23/2004	 1	Complaint by Gerald H. Davis, against Jerry L. Icenhower, Donna L. Icenhower, Howell & Gardner Investors, Inc., Robert Miller 04-90392; Nature of Suit(s): 454 (Recover Money/Property),, Fee Amount \$ 150 Filed by Michael E. Busch on behalf of Gerald H. Davis, Howell & Gardner Investors, Inc.. (Duran, K.) Additional attachment(s) added on 9/1/2004 (Duran, K.). Additional attachment(s) added on 9/1/2004 (Duran, K.). (Entered: 09/01/2004)

08/23/2004	<u>2</u>	Summons Issued on Howell & Gardner Investors, Inc. Answer Due 9/22/2004; Donna L. Icenhower Answer Due 9/22/2004; Jerry L. Icenhower Answer Due 9/22/2004; Robert Miller Answer Due 9/22/2004 (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>3</u>	Receipt of Filing Fee. Filing fee collected, receipt #180519. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>4</u>	Emergency <i>Ex Parte</i> Application of the trustee to file documents under seal filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>5</u>	Order Granting trustee's emergency <i>Ex Parte</i> Application to file documents under seal (related documents <u>4</u> Generic Application) signed on 8/24/2004. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>6</u>	Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>7</u>	Memorandum of Points and Authorities in Support of Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>8</u>	Declaration of Richard W. Page in Support of Plaintiff's Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>9</u>	Declaration of Gerald H. Davis in Support of Plaintiff's emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>10</u>	Declaration of Diane C. Oney in Support of Plaintiff's emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/23/2004	<u>11</u>	Declaration of Kathleen A. Cashman-Kramer in Support of Plaintiff's Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/24/2004	<u>12</u>	Notice of Submission to the court of Videotape in support of Plaintiff's Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC (related documents <u>6</u> Generic Application) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/24/2004	<u>13</u>	Request for Judicial Notice in Support of Emergency <i>Ex Parte</i> Application for issuance of a temporary Restraining Order and OSC filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Duran, K.) Additional attachment(s) added on 9/1/2004 (Duran, K.). Additional attachment(s) added on 9/1/2004 (Duran, K.). (Entered: 09/01/2004)
08/24/2004	<u>14</u>	Temporary Retraining Order and OSC (related documents <u>6</u> Generic Application) Order signed on 8/24/2004. (Duran, K.) (Entered: 09/01/2004)
08/24/2004	<u>15</u>	HEARING Scheduled for 9/2/2004 at 03:00 PM at Courtroom 2, Room 118, Weinberger Courthouse for Plaintiff's Motion for a Preliminary Injunction(related documents <u>14</u> Order) (Duran, K.) (Entered: 09/01/2004)

08/31/2004	<u>16</u>	Notice of Submission to the court of documents received via facsimile from defendant Robert Miller filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) Additional attachment(s) added on 9/1/2004 (Duran, K.). (Entered: 09/01/2004)
08/31/2004	<u>17</u>	Proof of Service (related documents <u>2</u> Summons Issued, <u>4</u> Generic Application, <u>5</u> Order, <u>6</u> Generic Application, <u>7</u> Memorandum of Points and Authorities, <u>8</u> Declaration in Support,, <u>9</u> Declaration in Support,, <u>10</u> Declaration in Support,, <u>11</u> Declaration in Support,, <u>1</u> Complaint,, <u>12</u> Generic Notice,, <u>13</u> Request for Judicial Notice,, <u>14</u> Order) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
08/31/2004	<u>18</u>	Declaration of Jerry L. Icenhower in Opposition to OSC; Re: Preliminary Injunction (related documents <u>6</u> Generic Application) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Duran, K.) (Entered: 09/01/2004)
08/31/2004	<u>19</u>	Memorandum of Points and Authorities in Opposition to OSC; Re: Preliminary Injunction (related documents <u>6</u> Generic Application) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Duran, K.) (Entered: 09/01/2004)
08/31/2004	<u>20</u>	Proof of Service (related documents <u>18</u> Declaration in Opposition, <u>19</u> Memorandum of Points and Authorities) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Duran, K.) (Entered: 09/01/2004)
09/01/2004	<u>21</u>	Emergency Ex Parte Application of the trustee to Unseal Documents previously filed under seal filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
09/01/2004	<u>22</u>	Proof of Service (related documents <u>2</u> Summons Issued, <u>4</u> Generic Application, <u>5</u> Order, <u>6</u> Generic Application, <u>7</u> Memorandum of Points and Authorities, <u>8</u> Declaration in Support,, <u>9</u> Declaration in Support,, <u>10</u> Declaration in Support,, <u>11</u> Declaration in Support,, <u>1</u> Complaint,, <u>12</u> Generic Notice,, <u>13</u> Request for Judicial Notice,, <u>14</u> Order) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 09/01/2004)
09/01/2004	<u>23</u>	Order Granting Trustee's Emergency Ex Parte Application to Unseal Documents previously filed under seal (related documents <u>21</u> Generic Application) signed on 9/1/2004. (Duran, K.) (Entered: 09/01/2004)
09/02/2004	<u>24</u>	Proof of Service (Personal) on defendant Howell & Gardner Investors, Inc. filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (related documents <u>4</u> Generic Application, <u>6</u> Generic Application, <u>21</u> Generic Application) (Cashman-Kramer, Kathleen) (Entered: 09/02/2004)
09/02/2004	<u>25</u>	Declaration of Michael E. Busch in Support of Issuance of Preliminary Injunction and proof of service re: same (related documents <u>6</u> Generic Application) filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 09/02/2004)
09/02/2004	<u>28</u>	Minute Order. DISPOSITION(s): Hearing Continued . Mr. Conti to file supplemental decl by noon on 9/15 and E-serve or fax-serve on Mr. Busch response by Mr. Busch to be filed by noon on 9/20. TRO continues until tomorrow on Howell & Gardner & Robert Miller. Mr. Busch to file a preliminary injunction with out prejudice to modify the stay. An amended complaint maybe fld re: the Villa Hermosa property. Mr. Busch to prepare a stip order and have Mr. Conti sign off on it. PRETRIAL STATUS CONFERENCE Scheduled for 9/21/2004 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse; (Townsend, P.) (Entered: 09/03/2004)
09/03/2004	<u>26</u>	Preliminary Injunction After Hearing Preventing Defendants Howell & Gardner Investors, Inc. and Robert Miller From Taking Any Action Regarding the Transfer of, Encumbering, or Otherwise Affecting the Title to, or Interest in, or taking any Action to Materially Affect the Condition of, the Real Property and Related Personal Property (related documents <u>6</u> Generic

		Application) signed on 9/3/2004. (Townsend, P.) (Entered: 09/03/2004)
09/03/2004	<u>27</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>26</u> Order,) (Townsend, P.) (Entered: 09/03/2004)
09/03/2004	<u>29</u>	Notice of Compliance Fed Rule 7016 & LR 7016(1&2) and certificate of service filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 09/03/2004)
09/09/2004	<u>30</u>	Notice of Lodgment of Order <i>CONTINUING TEMPORARY RESTRAINING ORDER BY STIPULATION IN OPEN COURT AND SETTING BRIEFING SCHEDULE (AS TO DEBTORS JERRY L. AND DONNA L. ICENHOWER) RE: THE TRANSFER, ENCUMBERING, OR OTHERWISE AFFECTING THE TITLE TO, OR INTEREST IN, OR TAKING ANY ACTION TO MATERIALLY AFFECT THE CONDITION OF, REAL AND RELATED PERSONAL PROPERTY</i> with Service filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer, Kathleen) (Entered: 09/09/2004)
09/09/2004	<u>31</u>	Amended Notice of Lodgment of Order <i>CONTINUING TEMPORARY RESTRAINING ORDER BY STIPULATION IN OPEN COURT AND SETTING BRIEFING SCHEDULE (AS TO DEBTORS JERRY L. AND DONNA L. ICENHOWER) RE: THE TRANSFER, ENCUMBERING, OR OTHERWISE AFFECTING THE TITLE TO, OR INTEREST IN, OR TAKING ANY ACTION TO MATERIALLY AFFECT THE CONDITION OF, REAL AND RELATED PERSONAL PROPERTY</i> with Service filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer, Kathleen) Modified on 9/9/2004 (Duran, K.) Contacted atty, Dept #, & Judge was incorrect on face page. (Entered: 09/09/2004)
09/09/2004	<u>32</u>	Amended Notice of Lodgment of Order <i>CONTINUING TEMPORARY RESTRAINING ORDER BY STIPULATION IN OPEN COURT AND SETTING BRIEFING SCHEDULE (AS TO DEBTORS JERRY L. AND DONNA L. ICENHOWER) RE: THE TRANSFER, ENCUMBERING, OR OTHERWISE AFFECTING THE TITLE TO, OR INTEREST IN, OR TAKING ANY ACTION TO MATERIALLY AFFECT THE CONDITION OF, REAL AND RELATED PERSONAL PROPERTY</i> with Service filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer, Kathleen) (Entered: 09/09/2004)
09/15/2004	<u>33</u>	Supplemental Memorandum of Points and Authorities in Opposition to OSC:RE: Preliminary Injunction (related documents <u>26</u> Order,) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Townsend, P.) (Entered: 09/16/2004)
09/15/2004	<u>34</u>	Supplemental Declaration of William L. Conti in Opposition to OSC:RE: Preliminary Injunction (related documents <u>33</u> Memorandum of Points and Authorities, <u>26</u> Order,) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Townsend, P.) (Entered: 09/16/2004)
09/16/2004	<u>36</u>	Proof of Service by Personal Service filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>2</u> Summons Issued, <u>4</u> Generic Application, <u>6</u> Generic Application, <u>1</u> Complaint,) (Schmitt, T.) (Entered: 09/17/2004)
09/16/2004	<u>37</u>	Proof of Service filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>2</u> Summons Issued, <u>4</u> Generic Application, <u>5</u> Order, <u>6</u> Generic Application, <u>7</u> Memorandum of Points and Authorities, <u>8</u> Declaration in Support,, <u>9</u> Declaration in Support,, <u>10</u> Declaration in Support,, <u>1</u> Complaint,, <u>12</u> Generic Notice,, <u>13</u> Request for Judicial Notice,, <u>14</u> Order) (Schmitt, T.) (Entered: 09/17/2004)
09/17/2004	<u>35</u>	Proof of Service (Personal) of Preliminary Injunction filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer,

		Kathleen) (Entered: 09/17/2004)
09/20/2004	● <u>38</u>	Reply by Plaintiff to the Supplemental Opposition of Jerry L. and Donna Icenhower to OSC Re: Preliminary Injunction and certificate of service (related documents <u>6</u> Generic Application) filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Evidentiary Objections to Declarations Submitted by Debtors# <u>2</u> Declaration (Second) of Michael E. Busch in Support of Reply) (Cashman-Kramer, Kathleen) (Entered: 09/20/2004)
09/20/2004	● <u>39</u>	Amended Proof of Service filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer, Kathleen) (Entered: 09/20/2004)
09/20/2004	● <u>40</u>	Order to Continue Hearing HEARING Scheduled for 9/21/2004 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>32</u> Notice of Lodgment of Order,Re: TRO) signed on 9/20/2004. (Crosby, A.C.) (Entered: 09/21/2004)
09/20/2004	● <u>41</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>40</u> Order to Continue Hearing) (Crosby, A.C.)(COURT NOTE: Entered in Error see doc. #44) Modified on 9/29/2004 (Crosby, A.C.). (Entered: 09/21/2004)
09/21/2004	● <u>42</u>	Minute Order. DISPOSITION(s): Court will issue the Injunction. Order to be prepared by Busch. ; (related documents <u>6</u> Generic Application) (Townsend, P.) (Entered: 09/22/2004)
09/24/2004	● <u>43</u>	Answer to Complaint (Related Doc # <u>1</u>) filed by Robert L. Rentto of Law Offices Of Robert L. Rentto on behalf of on behalf of Robert Miller. (related documents <u>1</u> Complaint,) (Townsend, P.) (Entered: 09/24/2004)
09/29/2004	● <u>44</u>	Notice of Entry of Judgment or Order (related documents <u>40</u> Order to Schedule/Continue Hearing) (Crosby, A.C.) (Entered: 09/29/2004)
10/04/2004	● <u>45</u>	Answer to Complaint by Jerry and Donna Icenhower (related documents <u>1</u> Complaint,) filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 10/04/2004)
10/06/2004	● <u>46</u>	Notice of Lodgment of Order PRELIMINARY INJUNCTION AFTER HEARING PREVENTING DEFENDANTS JERRY L. ICENHOWER AND DONNA L. ICENHOWER FROM TAKING ANY ACTION REGARDING THE TRANSFER OF, ENCUMBERING, OR OTHERWISE AFFECTING THE TITLE TO, OR INTEREST IN, OR TAKING ANY ACTION TO MATERIALLY AFFECT THE CONDITION OF, THE REAL PROPERTY AND RELATED PERSONAL PROPERTY with Service filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (related documents <u>6</u> Generic Application) (Cashman-Kramer, Kathleen) (Entered: 10/06/2004)
10/14/2004	● <u>47</u>	Lodged Order on Preliminary Injunction after hearing preventing defendants Jerry Icenhower and Donna Icenhower from taking any action regarding the transfer of, encumbering, or otherwise affecting the title to, or interest in, or taking any action to materially affect the condition of, the real property and related personal property, (related documents <u>46</u> Notice of Lodgment of Order, ,) signed on 10/14/2004. (Duran, K.) (Entered: 10/14/2004)
10/14/2004	● <u>48</u>	Notice of Entry of Judgment or Order (related documents <u>47</u> Order,) (Duran, K.) (Entered: 10/14/2004)
10/15/2004	● <u>49</u>	Proof of Service filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. (related documents <u>47</u> Order,) (Busch, Michael) (Entered: 10/15/2004)

10/25/2004	● <u>50</u>	Proof of Service on <i>Jerry Icenhower</i> (related documents <u>47</u> Order,) filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Proof of Service Donna Icenhower) (Duran, K.) (Entered: 10/26/2004)
02/11/2005	● <u>51</u>	Notice of Intent to Dismiss Adversary Proceeding without Prejudice for want of Prosecution. Notice of Intent Served On: 2/11/2005. Order/Judgement or Notice for hearing due by: 3/3/2005. (Duran, K.) (Entered: 02/11/2005)
02/17/2005	● <u>55</u>	Amended Complaint by Gerald H. Davis against Howell & Gardner Investors, Inc., Donna L. Icenhower, Jerry L. Icenhower, Robert Miller. filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibit A) (Duran, K.) Additional attachment(s) added on 2/24/2005 (Duran, K.). Additional attachment(s) added on 2/24/2005 (Duran, K.). (Entered: 02/24/2005)
02/17/2005	● <u>56</u>	Summons Issued on Howell & Gardner Investors, Inc. Answer Due 3/21/2005; Donna L. Icenhower Answer Due 3/21/2005; Jerry L. Icenhower Answer Due 3/21/2005; Robert Miller Answer Due 3/21/2005 (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>57</u>	Ex Parte <i>Emergency Application by Plaintiff to file First Amended Complaint to add two Defendants; Memorandum of Points and Authorities</i> filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>58</u>	Ex Parte <i>Second Application by Trustee to file documents under seal</i> (related documents <u>52</u> Motion for Ex Parte Relief,) filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>59</u>	Ex Parte <i>Second Emergency Application for Issuance of a Temporary Restraining Order and OSC</i> filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>60</u>	Memorandum of Points and Authorities <i>in support of Emergency Application for issuance of a Temporary Restraining Order and OSC</i> (related documents <u>59</u> Generic Application) filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>61</u>	Request for Judicial Notice of <i>Second Application for issuance of a temporary Restraining Order and OSC</i> filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. (related documents <u>59</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>62</u>	Declaration of <i>Michael Busch</i> in Support of <i>1) Second Application to file documents under seal 2) Issuance of a Temporary restraining order and OSC 3) First Amended complaint</i> (related documents <u>55</u> Amended Complaint,, <u>58</u> Generic Application, <u>59</u> Generic Application) filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibit 1) (Duran, K.) Additional attachment(s) added on 2/24/2005 (Duran, K.). Additional attachment(s) added on 2/24/2005 (Duran, K.). (Entered: 02/24/2005)
02/17/2005	● <u>63</u>	Order Granting Emergency Application to file First Amended Complaint (Related Doc # <u>57</u>) signed on 2/17/2005. (related documents <u>57</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>64</u>	Order Granting Emergency Application to file documents under seal (signed on 2/17/2005. (related documents <u>58</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)
02/17/2005	● <u>65</u>	Order Granting Application for Temporary Restraining Order and OSC (Related Doc # <u>59</u>) signed on 2/17/2005. (related documents <u>59</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)

02/22/2005	<u>52</u>	Second <i>Emergency</i> Motion for Ex Parte Relief to <i>Unseal Documents Previously Filed Under Seal</i> (Re: <i>Issuance of a Temporary Restraining Order, etc.</i>) filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis (Cashman-Kramer, Kathleen) (Entered: 02/22/2005)
02/23/2005	<u>53</u>	Second Order Granting Motion for Ex Parte Relief to Unseal Documents Previously filed under Seal (Related Doc # <u>52</u>) signed on 2/23/2005. (Duran, K.) (Entered: 02/23/2005)
02/23/2005	<u>54</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>53</u> Order re: Motion for Ex Parte Relief) (Duran, K.) (Entered: 02/23/2005)
02/23/2005	<u>66</u>	Objection of <i>Alejandro Barba and Martha Diaz to Declaration of Michael Busch</i> (related documents <u>62</u> Declaration in Support,,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) Additional attachment(s) added on 2/24/2005 (Duran, K.). (Entered: 02/24/2005)
02/23/2005	<u>67</u>	Opposition to Order to show Case regarding Preliminary Injunction (related documents <u>65</u> Generic Order re: Application) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 02/24/2005)
02/24/2005	<u>68</u>	Summons Served on: Alejandro Diaz Barba, Martha Diaz. Served On 02/21/05 filed by Michael E. Busch on behalf of Gerald H. Davis. (Duran, K.) (Entered: 02/24/2005)
02/24/2005	<u>69</u>	Proof of Service on <i>William Conti</i> filed by Gerald H. Davis. (related documents <u>63</u> Generic Order re: Application, <u>58</u> Generic Application, <u>64</u> Generic Order re: Application, <u>59</u> Generic Application, <u>60</u> Memorandum of Points and Authorities,, <u>65</u> Generic Order re: Application, <u>61</u> Request for Judicial Notice,, <u>62</u> Declaration in Support,, <u>57</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)
02/24/2005	<u>70</u>	Proof of Service on <i>Robert Rentto</i> filed by Gerald H. Davis. (related documents <u>63</u> Generic Order re: Application, <u>58</u> Generic Application, <u>64</u> Generic Order re: Application, <u>60</u> Memorandum of Points and Authorities,, <u>65</u> Generic Order re: Application, <u>61</u> Request for Judicial Notice,, <u>62</u> Declaration in Support,, <u>57</u> Generic Application) (Duran, K.) (Entered: 02/24/2005)
02/24/2005	<u>71</u>	Minute Order. DISPOSITION(s): Preliminary Injunction will be issued re: no further transfer of property without further order of court to some entity that is not within jurisdiction of this court. Order to be prepared by Busch, if lodged, 24 hours lodging period; (related documents <u>6</u> Generic Application) (Duran, K.) (Entered: 02/25/2005)
02/25/2005	<u>72</u>	Order on Preliminary Injunction after Hearing (related documents <u>71</u> Minute Order Pretrial SC, Pretrial, Trial,) signed on 2/25/2005. (Duran, K.) (Entered: 02/25/2005)
02/25/2005	<u>73</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>72</u> Order) (Duran, K.) (Entered: 02/25/2005)
02/28/2005	<u>74</u>	Proof of Service filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>72</u> Order) (Busch, Michael) (Entered: 02/28/2005)
03/02/2005	<u>75</u>	Notice of Pre-Trial Status Conference filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. PRETRIAL STATUS CONFERENCE Scheduled for 4/21/2005 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Attachments: # <u>1</u> Certificate of Compliance with Early Conference of Counsel) (Busch, Michael) (Entered: 03/02/2005)

03/23/2005	<u>76</u>	Amended Answer to Complaint (related documents <u>55</u> Amended Complaint,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 03/24/2005)
03/23/2005	<u>77</u>	Demand for Jury Trial filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents <u>55</u> Amended Complaint,, <u>76</u> Answer to Complaint) (Duran, K.) (Entered: 03/24/2005)
03/28/2005	<u>78</u>	Request to Enter Default with Declaration of Mailing, Memorandum of Costs and if applicable Declaration of Non- Military Status. filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Declaration of Kathleen A. Cashman-Kramer in Support of Application for Entry of Default against Defendant Howell & Gardner Investors, Inc.) (Cashman-Kramer, Kathleen) (Entered: 03/28/2005)
03/28/2005	<u>79</u>	Amended Request to Enter Default with Declaration of Mailing, Memorandum of Costs and if applicable Declaration of Non- Military Status. (<i>As to Defendant Howell & Gardner Investors, Inc. only</i>) filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 03/28/2005)
03/29/2005	<u>80</u>	<i>Amended</i> Request to Enter Default with Declaration of Mailing, Memorandum of Costs and if applicable Declaration of Non- Military Status. <i>and Declaration of Kathleen A. Cashman-Kramer in support</i> filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 03/29/2005)
03/29/2005	<u>81</u>	Notice of Entry of Default (related documents <u>80</u> Request to Enter Default,) (Crosby, A.C.) Court Note: incorrectly entered. Modified on 7/26/2005 (Hakow, A.). (Entered: 03/29/2005)
03/30/2005	<u>82</u>	Notice of Entry of Default (related documents <u>80</u> Request to Enter Default,) (Crosby, A.C.) Court Note: Entered prematurely Modified on 7/26/2005 (Hakow, A.). (Entered: 03/30/2005)
03/30/2005	<u>83</u>	Court Certificate of Mailing (related documents <u>82</u> Notice of Entry of Default) Service Date 04/01/2005. (Admin:) (Entered: 04/01/2005)
04/20/2005	<u>84</u>	<i>Amended</i> Certificate of Compliance with Early Conference of Counsel, L.R. 7016-2 filed by Michael E. Busch of Pyle Sims Duncan & Stevenson on behalf of Gerald H. Davis. (related documents <u>75</u> Notice of Pre-Trial Status Conference,) (Busch, Michael) (Entered: 04/20/2005)
04/21/2005	<u>85</u>	Stipulation re answers of Robert Miller and of Jerry and Donna Icenhower to first amended complaint for avoidance, etc. and order thereon; signed on 4/21/2005. (Duran, K.) (Entered: 04/21/2005)
04/21/2005	<u>86</u>	Minute Order. DISPOSITION(s): Continued; Discovery cutoff is 10/21/05. PRETRIAL STATUS CONFERENCE Scheduled for 10/27/2005 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse; (Duran, K.) (Entered: 04/22/2005)
05/02/2005	<u>87</u>	Declaration (<i>Suppletal</i>) of Kathleen A. Cashman-Kramer in Support of <i>Application for Entry of Default Against defendant Howell & Gardner Investors, Inc.</i> (related documents <u>82</u> Notice of Entry of Default) filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 05/02/2005)
07/11/2005		Miscellaneous Tickler AP: Service remedied Tickler Due Date: 8/10/2005, (related documents <u>82</u> Notice of Entry of Default) (Crosby, A.C.) (Entered: 07/11/2005)
07/18/2005	<u>88</u>	Notice of Entry of Default (related documents <u>79</u> Request to Enter Default,, <u>78</u> Request to Enter Default,, <u>80</u> Request to Enter Default,) (Townsend, P.) Court Note: Entered in Error Modified on 7/26/2005 (Hakow, A.). (Entered: 07/18/2005)

07/18/2005	<u>89</u>	Notice of Entry of Default (related documents <u>79</u> Request to Enter Default, <u>78</u> Request to Enter Default, <u>80</u> Request to Enter Default,) (Townsend, P.) Court Note: Incorrect Judgement Debtore indicated on Notice. Modified on 7/26/2005 (Hakow, A.). (Entered: 07/18/2005)
07/18/2005	<u>90</u>	Court Certificate of Mailing (related documents <u>89</u> Notice of Entry of Default) Service Date 07/20/2005. (Admin.) (Entered: 07/20/2005)
07/26/2005	<u>91</u>	Notice of Entry of Default (related documents <u>80</u> Request to Enter Default,) (Duran, K.) (Entered: 07/26/2005)
07/26/2005	<u>92</u>	Court Certificate of Mailing (related documents <u>91</u> Notice of Entry of Default) Service Date 07/28/2005. (Admin.) (Entered: 07/28/2005)
09/28/2005	<u>93</u>	Emergency <i>Ex Parte</i> Application to Continue Discovery Cut-Off Date and Related Agreed-Upon Pre-Trial Dates Previously Agreed to by Parties, to Reset Pre-Trial Status Conference, and for Approval of Stipulation Regarding Disclosure of Confidential Information filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Declaration of Michael E. Busch in Support) (Cashman-Kramer, Kathleen) Modified on 9/29/2005 (Dahl, S.). (Entered: 09/28/2005)
09/28/2005	<u>94</u>	Stipulation Regarding Disclosure of Confidential Information filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Cashman-Kramer, Kathleen) (Entered: 09/28/2005)
09/28/2005	<u>95</u>	Proof of Service filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Service List) (related documents <u>94</u> Stipulation, <u>93</u> Motion to Extend Time,) (Cashman-Kramer, Kathleen) (Entered: 09/28/2005)
09/30/2005	<u>96</u>	NOT APPROVED Order on Stipulation regarding Disclosure of Confidential Information (related documents <u>94</u> Stipulation) signed on 9/30/2005. (Duran, K.) (Entered: 10/03/2005)
09/30/2005	<u>98</u>	Order on Sipulated Emergency Ex Parte Application to Continue Discovery Cut-Off date and related agreed-upon Pre-trial dates previously agreed to by parties, to Disclosure of Confidential Information; HEARING Continued to 1/12/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>93</u> Motion to Extend Time,) signed on 9/30/2005. (Duran, K.) (Entered: 10/03/2005)
10/03/2005	<u>97</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>96</u> Stipulated Order) (Duran, K.) (Entered: 10/03/2005)
10/03/2005	<u>99</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>98</u> Order to Schedule/Continue Hearing,) (Duran, K.) (Entered: 10/03/2005)
10/14/2005	<u>100</u>	Proof of Service filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Documents Served/Service List) (related documents <u>98</u> Order to Schedule/Continue Hearing,, <u>96</u> Stipulated Order) (Busch, Michael) (Entered: 10/14/2005)
11/10/2005	<u>101</u>	Stipulated Emergency Ex Parte Application for Approval of Revised Stipulation Regarding Disclosure of Confidential Information filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Declaration Michael E. Busch# <u>3</u> Proof of Service # <u>4</u> List of Documents Served) (Busch, Michael) (Entered: 11/10/2005)
11/10/2005		Stipulation Regarding Disclosure of Confidential Information filed by Michael E. Busch on

	● <u>102</u>	behalf of Gerald H. Davis. (related documents <u>101</u> Generic Application or Motion,) (Busch, Michael) (Entered: 11/10/2005)
11/14/2005	● <u>103</u>	Order on Revised Stipulation regarding Disclosure of confidential information (related documents <u>102</u> Stipulation) signed on 11/14/2005. (Duran, K.) (Entered: 11/14/2005)
11/14/2005	● <u>104</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>103</u> Stipulated Order) (Duran, K.) (Entered: 11/14/2005)
11/15/2005	● <u>105</u>	Proof of Service filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> service list) (related documents <u>103</u> Stipulated Order) (Busch, Michael) (Entered: 11/15/2005)
12/09/2005	● <u>106</u>	Second <i>Emergency Ex Parte Application BY THE PLAINTIFF UNDER FEDERAL RULE OF CIVIL PROCEDURE 15 AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 7015 FOR LEAVE TO FILE SECOND COMPLAINT TO ADD DEFENDANTS</i> filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Declaration of Kathleen A. Cashman-Kramer in Support of Second Emergency Ex Parte Application BY THE PLAINTIFF UNDER FEDERAL RULE OF CIVIL PROCEDURE 15 AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 7015 FOR LEAVE TO FILE SECOND COMPLAINT TO ADD DEFENDANTS, proofs of service)(Cashman-Kramer, Kathleen) (Entered: 12/09/2005)
12/14/2005	● <u>107</u>	Second Amended Complaint by Gerald H. Davis against Craig Kelley, an individual, Johnstown Enterprises, LLC, a Nevada limited liability company, Buckeye International Investments, Inc., a Nevada corporation, Western Financial Assets, Inc., a Nevada corporation, Alejandro Diaz Barba, Martha Diaz, Howell & Gardner Investors, Inc., Donna L. Icenhower, Jerry L. Icenhower, Robert Miller. (related documents <u>55</u> Amended Complaint,) filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibit A-E# <u>2</u> Exhibit F&G) (Busch, Michael) (Entered: 12/14/2005)
12/14/2005	● <u>108</u>	Request for Issuance of Amended Summons filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> List of all Defendants) (Busch, Michael) (Entered: 12/14/2005)
12/14/2005	● <u>109</u>	Order Granting Plaintiff's Second Emergency Ex Parte Application to File and Serve Second Amended Complaint(Related Doc # <u>106</u>) signed on 12/14/2005. (related documents <u>106</u> Generic Application or Motion,) (Schmitt, T.) (Entered: 12/14/2005)
12/14/2005	● <u>110</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>109</u> Generic Order re: Application) (Schmitt, T.) (Entered: 12/14/2005)
12/14/2005	● <u>111</u>	Summons Issued on Alejandro Diaz Barba Answer Due 1/13/2006; Buckeye International Investments, Inc., a Nevada corporation Answer Due 1/13/2006; Martha Diaz Answer Due 1/13/2006; Howell & Gardner Investors, Inc. Answer Due 1/13/2006; Donna L. Icenhower Answer Due 1/13/2006; Jerry L. Icenhower Answer Due 1/13/2006; Johnstown Enterprises, LLC, a Nevada limited liability company Answer Due 1/13/2006; Craig Kelley, an individual Answer Due 1/13/2006; Robert Miller Answer Due 1/13/2006; Western Financial Assets, Inc., a Nevada corporation Answer Due 1/13/2006 (Schmitt, T.) (Entered: 12/15/2005)
12/15/2005	● <u>112</u>	Amended Summons Served on: Alejandro Diaz Barba, Buckeye International Investments, Inc., a Nevada corporation, Martha Diaz, Howell & Gardner Investors, Inc., Donna L. Icenhower, Jerry L. Icenhower, Johnstown Enterprises, LLC, a Nevada limited liability company, Craig Kelley, an individual, Robert Miller, Western Financial Assets, Inc., a Nevada corporation. Served On 12/15/2005 filed by Michael E. Busch on behalf of Gerald H. Davis. (Busch, Michael) (Entered: 12/15/2005)

12/15/2005	<u>113</u>	Proof of Service filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Documents Served# <u>2</u> Service List) (related documents <u>109</u> Generic Order re: Application, <u>98</u> Order to Schedule/Continue Hearing,, <u>112</u> Return of Summons Served,, <u>84</u> Certificate of Compliance with Early Conference of Counsel, L.R. 7016-2,, <u>107</u> Amended Complaint,,) (Busch, Michael) (Entered: 12/15/2005)
01/05/2006	<u>114</u>	Status Report re Results of Mediation and Case Status filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Proof of Service # <u>2</u> Service List) (Busch, Michael) (Entered: 01/05/2006)
01/06/2006	<u>115</u>	Report Errata to Second Amended Complaint for Avoidance, Recovery and Preservation of Fraudulent Conveyance; for Cancellation of Instruments; Rescission; for Declaratory Relief; and for Injunctive Relief, and Request to Issue Alias Summons filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Proof of Service # <u>2</u> Service List) (related documents <u>108</u> Request for Issuance of Amended Summons, <u>112</u> Return of Summons Served,, <u>107</u> Amended Complaint,,) (Busch, Michael) (Entered: 01/06/2006)
01/06/2006	<u>116</u>	Summon Issued Alias Summons Issued on all defendants (Entered: 01/06/2006)
01/09/2006	<u>117</u>	Request for Issuance of Alias Summons filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Service List) (Busch, Michael) (Entered: 01/09/2006)
01/09/2006	<u>118</u>	ALIAS Summons Issued on Buckeye International Funding Inc., a Nevada corporation Answer Due 2/8/2006; Johnstown Enterprises, LLC, a Nevada limited liability company Answer Due 2/8/2006; Western Financial Assets, Inc., a Nevada corporation Answer Due 2/8/2006 (Duran, K.) Modified on 1/10/2006 (Duran, K.). (Entered: 01/09/2006)
01/11/2006	<u>119</u>	Alias Summons Served on: Buckeye International Funding, Inc., a Nevada corporation, Johnstown Enterprises, LLC, a Nevada limited liability company, Western Financial Assets, Inc., a Nevada corporation. Served On 1/9/2006 filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Proof of Service Western Financial# <u>2</u> Proof of Service Buckeye# <u>3</u> Proof of Service Johnstown) (Busch, Michael) (Entered: 01/11/2006)
01/12/2006	<u>120</u>	Minute Order. DISPOSITION(s): Continued; For settlement to be noticed. PRETRIAL STATUS CONFERENCE Scheduled for 2/23/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse; (Duran, K.) (Entered: 01/13/2006)
01/13/2006	<u>121</u>	Stipulation re Answers of Robert Miller, Alejandro Diaz Barba, Martha B. Diaz, Jerry and Donna Icenhower to Second Amended Complaint for Avoidance filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>107</u> Amended Complaint,,) (Busch, Michael) (Entered: 01/13/2006)
01/20/2006	<u>122</u>	Notice of Continued Status Conference filed by Kathleen A. Cashman-Kramer of Pyle Sims Duncan & Stevenson, APC on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Court's Minute Order# <u>2</u> Proof of Service # <u>3</u> Service List) (related documents <u>120</u> Minute Order Pretrial SC, Pretrial, Trial) (Cashman-Kramer, Kathleen) (Entered: 01/20/2006)
02/02/2006	<u>123</u>	Stipulation Extending Deadline for Defendant Craig Kelley to Respond to Second Amended Complaint filed by Kathleen A. Cashman-Kramer on behalf of Gerald H. Davis. (related documents <u>112</u> Return of Summons Served,, <u>107</u> Amended Complaint,,) (Cashman-Kramer, Kathleen) (Entered: 02/02/2006)
02/09/2006	<u>124</u>	Answer to Complaint by Buckeye International Funding, Inc. (related documents <u>107</u> Complaint,,) filed by William L. Conti on behalf of Buckeye International Funding, Inc., a Nevada corporation. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 02/09/2006)
02/09/2006	<u>125</u>	Answer to Complaint by Johnstown Enterprises, LLC (related documents <u>107</u> Complaint,,) filed by William L. Conti on behalf of Johnstown Enterprises, LLC, a Nevada limited

		liability company. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 02/09/2006)
02/09/2006	<u>126</u>	Answer to Complaint by <i>Western Financial Assets, Inc.</i> (related documents <u>107</u> Complaint,,) filed by William L. Conti on behalf of Western Financial Assets, Inc., a Nevada corporation. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 02/09/2006)
02/16/2006	<u>127</u>	Answer to Complaint (Related Doc # <u>1</u>) filed by Ronald White on behalf of on behalf of Craig Kelley, an individual. (related documents <u>107</u> Complaint,,) (Crosby, A.C.) (Entered: 02/17/2006)
02/23/2006	<u>128</u>	Minute Order. DISPOSITION(s): PRETRIAL STATUS CONFERENCE Continued to 3/23/2006 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse; To finalize the agreement or file a status report. (Duran, K.) (Entered: 02/23/2006)
03/23/2006	<u>129</u>	Minute Order. PRETRIAL STATUS CONFERENCE Continued to 5/18/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse; Mr. Busch to file an amended complaint. (Duran, K.) (Entered: 03/24/2006)
05/17/2006	<u>130</u>	Stipulation to Continue Pretrial Status Conference filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Declaration of Michael E. Busch in Support) (Busch, Michael) (Entered: 05/17/2006)
05/17/2006	<u>131</u>	Order on Stipulation to Continue Status Conference HEARING Scheduled for 7/6/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>130</u> Stipulation) signed on 5/17/2006. (Duran, K.) (Entered: 05/17/2006)
05/17/2006	<u>132</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>131</u> Stipulation to Continue Status Conference (hr)) (Duran, K.) (Entered: 05/17/2006)
05/18/2006	<u>133</u>	Stipulation to Continue Pretrial Status Conference (with Ronald White's Signature) filed by Michael E. Busch on behalf of Gerald H. Davis. (related documents <u>130</u> Stipulation, <u>131</u> Stipulation to Continue Status Conference (hr)) (Busch, Michael) (Entered: 05/18/2006)
06/30/2006	<u>134</u>	Request for Special Notice and Inclusion in List of Creditors and Interested Parties; with Proof of Service filed by Gary B. Rudolph on behalf of Gerald H. Davis. (Rudolph, Gary) (Entered: 06/30/2006)
07/05/2006	<u>135</u>	Status Conference Update Report filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Proof of Service # <u>3</u> Service List) (related documents <u>130</u> Stipulation, <u>131</u> Stipulation to Continue Status Conference (hr)) (Busch, Michael) (Entered: 07/05/2006)
07/06/2006	<u>136</u>	Minute Order. DISPOSITION(s): Continued. PRETRIAL STATUS CONFERENCE Scheduled for 7/20/2006 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse; (Crosby, A.C.) (Entered: 07/07/2006)
07/18/2006	<u>137</u>	Declaration of Gerald H. Davis re: the Chapter 7 Trustee's Statement of Position filed by Gary B. Rudolph of Sparber Rudolph Annen on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Exhibits "A" through "G"# <u>2</u> Exhibits "H" through "L"# <u>3</u> Exhibits "M" through "O"# <u>4</u> Proof of Service with Service List) (Rudolph, Gary) (Entered: 07/18/2006)
07/19/2006	<u>138</u>	Supplemental (Proof) Certificate of Service of Declaration of Gerald H. Davis re: the Chapter 7 Trustee's Statement of Position Attaching (4) Declarations of Personal Service (related documents <u>137</u> Declaration,) filed by Gary B. Rudolph on behalf of Gerald H. Davis. (Rudolph, Gary) (Entered: 07/19/2006)

07/19/2006	● <u>139</u>	<i>Second Supplemental (Proof) Certificate of Service of Declaration of Gerald H. Davis re: the Chapter 7 Trustee's Statement of Position Attaching (1) Declaration of Personal Service</i> (related documents <u>137</u> Declaration,) filed by Gary B. Rudolph on behalf of Gerald H. Davis. (Rudolph, Gary) (Entered: 07/19/2006)
07/20/2006	● <u>140</u>	Minute Order. DISPOSITION(s): Continued. PRETRIAL STATUS CONFERENCE Scheduled for 9/7/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse; (Duran, K.) (Entered: 07/24/2006)
08/08/2006	● <u>141</u>	Transcript hearing held on Jan 12, 2006 (related documents <u>120</u> Minute Order Pretrial SC, Pretrial, Trial) (Duran, K.) (Entered: 08/08/2006)
08/08/2006	● <u>142</u>	Transcript hearing held on Feb 23, 2006 (related documents <u>128</u> Minute Order Pretrial SC, Pretrial, Trial) (Duran, K.) (Entered: 08/08/2006)
08/09/2006	● <u>143</u>	Statement of Position <i>Re: Determination of Settlement</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 08/09/2006)
08/09/2006	● <u>144</u>	Declaration of <i>Fletcher W. Paddison</i> in Support of <i>Statement of Position</i> (related documents <u>143</u> Statement of Position) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 08/09/2006)
08/09/2006	● <u>145</u>	Declaration of <i>Alex Diaz</i> in Support of <i>Statement of Position</i> (related documents <u>143</u> Statement of Position) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 08/09/2006)
08/09/2006	● <u>146</u>	Proof of Service filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents <u>144</u> Declaration in Support, <u>145</u> Declaration in Support, <u>143</u> Statement of Position) (Duran, K.) (Entered: 08/09/2006)
08/09/2006	● <u>147</u>	Notice of Motion and Motion <i>for Hearing on Enforceability of Settlement Agreement</i> filed by Gary B. Rudolph on behalf of Gerald H. Davis. HEARING Scheduled for 9/7/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Hearing on Enforceability of Settlement Agreement) (Rudolph, Gary) (Entered: 08/09/2006)
08/10/2006	● <u>148</u>	Joinder <i>in position of the Diaz Defendants with Proof of Service</i> filed by Robert L. Rentto on behalf of Robert Miller. (related documents <u>1</u> Complaint,) (Duran, K.) (Entered: 08/10/2006)
08/14/2006	● <u>149</u>	Request for Special Notice filed by Janet D. Gertz of Baker & McKenzie LLP on behalf of Kismet Acquisition, LLC. (Elimu, M.) (Entered: 08/14/2006)
08/28/2006	● <u>150</u>	<i>Notice Of Motion In Limine And Motion To Strike All Evidence Protected By The Mediation Privilege And Points And Authorities In Support Thereof By Kismet Acquisition, LLC, And Kismet Acquisition II, LLC</i> filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Ali M.M. Mojdehi. (Mojdehi, Ali) (Entered: 08/28/2006)
08/28/2006	● <u>151</u>	<i>Motion In Limine And Motion To Strike All Evidence Protected By The Mediation Privilege And Points And Authorities In Support Thereof By Kismet Acquisition, LLC, And Kismet Acquisition II, LLC</i> filed by Ali M.M. Mojdehi on behalf of Ali M.M. Mojdehi. (related documents <u>150</u> Notice (miscellaneous), Notice (miscellaneous)) (Mojdehi, Ali) (Entered: 08/28/2006)
08/28/2006	● <u>152</u>	<i>Opposition To Trustees Motion For Hearing On Enforceability Of Settlement Agreement And Position Statement On Settlement By Plaintiff And Creditor Kismet Acquisition LLC, Successor In Interest To All Right Title And Interest In And To The Rights Of The D. Donald Lonie, Jr. Family Trust, And Creditor Kismet Acquisition II, LLC</i> (related documents <u>147</u> Notice of Motion and Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf

		of Ali M.M. Mojdehi. (Mojdehi, Ali) (Entered: 08/28/2006)
08/29/2006	● <u>153</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Ali M.M. Mojdehi. (related documents <u>151</u> Generic Application or Motion,, <u>150</u> Notice (miscellaneous), Notice (miscellaneous)) (Mojdehi, Ali) (Entered: 08/29/2006)
08/29/2006	● <u>154</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Ali M.M. Mojdehi. (related documents <u>152</u> Opposition,) (Mojdehi, Ali) (Entered: 08/29/2006)
08/31/2006	● <u>155</u>	Reply to <i>Opposition to Trustee's Motion for Hearing on Enforceability of Settlement Agreement</i> (related documents <u>152</u> Opposition,, <u>147</u> Notice of Motion and Motion,) filed by Robert L. Rentto of Law Offices Of Robert L. Rentto on behalf of Robert Miller. (Attachments: # <u>1</u> Declaration of Robert L. Rentto# <u>2</u> Declaration Robert P. Miller) (Schmitt, T.) (Entered: 08/31/2006)
09/05/2006	● <u>156</u>	Notice of Motion and Motion to <i>Strike Evidence in Miller Defendants Reply to Opposition to Trustees Motion for Hearing on Enforceability of Settlement Agreement by Kismet Acquisition LLC and Kismet Acquisition II LLC</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition II, LLC, Kismet Acquisition, LLC. HEARING Scheduled for 9/7/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Mojdehi, Ali) (Entered: 09/05/2006)
09/05/2006	● <u>157</u>	Motion to <i>Strike Evidence in Miller Defendants Reply to Opposition to Trustees Motion for Hearing on Enforceability of Settlement Agreement by Kismet Acquisition LLC and Kismet Acquisition II LLC</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition II, LLC, Kismet Acquisition, LLC (related documents <u>156</u> Notice of Motion and Motion,) (Mojdehi, Ali) (Entered: 09/05/2006)
09/05/2006	● <u>158</u>	Certificate of Service (related documents <u>156</u> Notice of Motion and Motion,, <u>157</u> Motion to Strike,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition II, LLC, Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 09/05/2006)
09/05/2006	● <u>159</u>	Reply to <i>Opposition re Motion for hearing on Enforceability of settlement</i> (related documents <u>156</u> Notice of Motion and Motion,, <u>157</u> Motion to Strike,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 09/05/2006)
09/05/2006	● <u>160</u>	Notice of Exhibit in support of Reply to <i>Opposition re Motion for Hearing on Enforceability of Settlement Agreement</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents <u>159</u> Reply,, <u>156</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 09/05/2006)
09/05/2006	● <u>161</u>	Declaration of <i>Gerald Davis</i> (related documents <u>147</u> Notice of Motion and Motion,) filed by Gary B. Rudolph of Sparber Rudolph Annen, APLC on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Declaration of Kathleen A., Cashman-Kramer# <u>2</u> Proof of Service) (Rudolph, Gary) (Entered: 09/05/2006)
09/06/2006	● <u>162</u>	Declaration of <i>Alex Diaz</i> in Support of <i>Statement of Position re: Determination of Settlement</i> (related documents <u>156</u> Notice of Motion and Motion,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 09/06/2006)
09/06/2006	● <u>163</u>	Amended Notice of Exhibit in support of Reply to <i>Opposition re Motion for Hearing on Enforceability of Settlement Agreement</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents <u>160</u> Exhibit,) (Duran, K.) (Entered: 09/06/2006)
09/07/2006	● <u>164</u>	Minute Order. Hearing DATE: 09/07/2006, MATTER: PRETRIAL STATUS CONFERENCE (Fr 7/20/06) and MOTION FOR HEARING ON ENFORCEABILITY OF

		SETTLEMENT AGREEMENT FILED GERALD H. DAVIS. DISPOSITION(S): CONTINUED. PRETRIAL STATUS CONFERENCE SCHEDULED FOR 9/7/2006 AT 02:00 PM AT COURTROOM 2, ROOM 118, WEINBERGER COURTHOUSE. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (29762)). HEARING Scheduled for 10/19/2006 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents 140 Minute Order Pretrial SC, Pretrial, Trial, 129 Minute Order Pretrial SC, Pretrial, Trial, 147 Notice of Motion and Motion,, 156 Notice of Motion and Motion,) (Fearce, K.) Modified on 9/10/2006 (Chaco, J.). (Entered: 09/08/2006)
09/14/2006	165	Notice of Lodgment of Order <i>Granting Motion in Limine of Kismet Acquisition, LLC and Denying Enforcement of Settlement Agreement; with Exhibit "I" thereto; and with Service</i> filed by Gary B. Rudolph of Sparber Rudolph Annen, APLC on behalf of Gerald H. Davis. (related documents 151 Generic Application or Motion,, 147 Notice of Motion and Motion,) (Rudolph, Gary) (Entered: 09/14/2006)
09/21/2006	166	Notice of Motion and Motion to <i>Compel Production of the Greenberg Appraisals</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. HEARING Scheduled for 10/19/2006 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Duran, K.) Modified on 10/2/2006 (Fearce, K.)COURT NOTE: contacted Atty to file an amended ntc correcting hrg time to 2:30 p.m. (Entered: 09/21/2006)
09/21/2006	167	Memorandum of Points and Authorities in support of Motion to compel production of the Greenberg Appraisals (related documents 166 Notice of Motion and Motion,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 09/21/2006)
09/21/2006	168	<i>Declaration of Fletcher W. Paddison in Support of Motion of compel production of the Greenberg Appraisals</i> (related documents 166 Notice of Motion and Motion,) filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) Additional attachment(s) added on 9/21/2006 (Duran, K.). (Entered: 09/21/2006)
09/21/2006	169	Proof of Service filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents 167 Memorandum of Points and Authorities,, 166 Notice of Motion and Motion,, 168 Declaration in Support,) (Duran, K.) (Entered: 09/21/2006)
09/22/2006	170	<i>Amended Proof of Service</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. (related documents 169 Proof of Service,) (Duran, K.) (Entered: 09/22/2006)
09/22/2006	171	<i>Amended Granting Order Motion in Limine of Kismet Acquisition, LLC and Denying Enforcement of Settlement Agreement</i> (related documents 148 Joinder, 147 Notice of Motion and Motion, 150 Notice (miscellaneous), Notice (miscellaneous)165 ntc lodgement) signed on 9/22/2006. (Duran, K.) (Entered: 09/25/2006)
09/25/2006	172	Notice of Entry of Judgment or Order (related documents 171 Order,) (Duran, K.) (Entered: 09/25/2006)
10/05/2006	173	<i>Opposition To Diaz Defendants Motion To Compel Production Of Greenberg Appraisals By Kismet Acquisition, LLC, And Kismet Acquisition II, LLC And In The Alternative Motion For Protective Order</i> (related documents 167 Memorandum of Points and Authorities,, 170 Proof of Service, 166 Notice of Motion and Motion,, 168 Declaration in Support,, 169 Proof of Service,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition II, LLC, Kismet Acquisition, LLC. (Attachments: # 1 Proof of Service) (Mojdehi, Ali). (Entered: 10/05/2006)
10/06/2006	174	<i>Amended Notice of Motion Compel Production of the Greenberg Appraisals</i> filed by Fletcher W. Paddison on behalf of Alejandro Diaz Barba, Martha Diaz. Notice Served On: 10/6/2006. Unless an Order Shortening Time has been entered, Opposition due by: 10/23/2006. (related documents 166 Notice of Motion and Motion,) (Duran, K.) (Entered: 10/10/2006)

10/12/2006	● <u>175</u>	Reply in Support of Motion to Compel Production of the Greenberg Appraisals w/Service (related documents <u>166</u> Notice of Motion and Motion,) filed by Fletcher W. Paddison, Alejandro Diaz Barba on behalf of Alejandro Diaz Barba, Martha Diaz. (Dahl, S.) (Entered: 10/13/2006)
10/16/2006	● <u>176</u>	Declaration of Gary B. Rudolph, Esq., re: Vacation Affidavit; with Proof of Service and Service List filed by Gary B. Rudolph of Sparber Rudolph Annen, APLC on behalf of Gerald H. Davis. (Rudolph, Gary) (Entered: 10/16/2006)
10/19/2006	● <u>177</u>	Request for Special Notice filed by Alan Vanderhoff on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 10/19/2006)
10/19/2006	● <u>178</u>	Declaration of Gary B. Rudolph, Esq., re: Status of Negotiations with Kismet Acquisition; with Proof of Service, Service List and Confirmation Sheets thereto filed by Gary B. Rudolph of Sparber Rudolph Annen, APLC on behalf of Gerald H. Davis. (Rudolph, Gary) (Entered: 10/19/2006)
10/19/2006	● <u>179</u>	Minute Order. Hearing DATE: 10/19/2006, MATTER: PRETRIAL STATUS CONFERENCE (Fr 9/6/06) and MOTION TO COMPEL PRODUCTION OF THE GREENBERG APPRAISALS FILED BY ALEJANDRO DIAZ BARBA, MARTHA DIAZ. (Fr 9/6/06). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (34323)). HEARING Scheduled for 11/30/2006 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial, <u>166</u> Notice of Motion and Motion,) (Fearce, K.) (Entered: 10/19/2006)
10/23/2006	● <u>180</u>	Notice of Lodgment of Order Granting Motion to Compel Production of the Greenberg Appraisals with Service filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (related documents <u>166</u> Notice of Motion and Motion,) (Vanderhoff, Alan) (Entered: 10/23/2006)
11/06/2006	● <u>181</u>	Order on Motion to Compel Production of the Greenberg Appraisals (related documents <u>179</u> Minute Order, ,, <u>166</u> Notice of Motion and Motion,, <u>180</u> Notice of Lodgment of Order,) signed on 11/6/2006. (Schmitt, T.) (Entered: 11/06/2006)
11/06/2006	● <u>182</u>	Notice of Entry of Order on Motion to Compel Production of the Greenberg Appraisals (related documents <u>181</u> Order) (Schmitt, T.) (Entered: 11/06/2006)
11/29/2006	● <u>183</u>	Motion to Dismiss for Lack of Subject Matter Jurisdiction and for Failure to State a Claim Or, in the Alternative, to Abstain filed by Alan Vanderhoff on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 11/29/2006)
11/29/2006	● <u>184</u>	Memorandum of Points and Authorities in Support of Motion to Dismiss (related documents <u>183</u> Motion to Dismiss) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 11/29/2006)
11/29/2006	● <u>185</u>	Declaration of Alex Diaz in Support of Motion to Dismiss (related documents <u>183</u> Motion to Dismiss) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 11/29/2006)
11/29/2006	● <u>186</u>	Declaration of Fletcher W. Paddison (related documents <u>183</u> Motion to Dismiss) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Exhibit Exhibit 1# <u>2</u> Exhibit Exhibit 2# <u>3</u> Exhibit Exhibit 3# <u>4</u> Exhibit Exhibit 4# <u>5</u> Exhibit Exhibit 5# <u>6</u> Exhibit Exhibit 6) (Vanderhoff, Alan) (Entered: 11/29/2006)
11/29/2006	● <u>187</u>	Notice of Motion and Hearing with Certificate of Service filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. HEARING Scheduled for 1/18/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse . Notice of

		Motion and Hearing Served On: 11/29/2006. Unless an Order Shortening Time has been entered, Opposition due by: 12/18/2006. (related documents <u>183</u> Motion to Dismiss) (Vanderhoff, Alan) (Entered: 11/29/2006)
11/30/2006	<u>188</u>	Minute Order. Hearing DATE: 11/30/2006, MATTER: PRETRIAL STATUS CONFERENCE (Fr 10/19/06). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (35335)). HEARING Scheduled for 01/18/2007 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial) (Purkey, J.) (Entered: 11/30/2006)
12/05/2006	<u>189</u>	<i>Notice of Time Change for Hearing</i> filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (related documents <u>183</u> Motion to Dismiss, <u>187</u> Notice of Hearing and Motion,) (Vanderhoff, Alan) (Entered: 12/05/2006)
12/05/2006	<u>190</u>	Proof of Service filed by Alan Vanderhoff on behalf of Alejandro Diaz Barba. (related documents <u>185</u> Declaration, <u>186</u> Declaration,) (Vanderhoff, Alan) (Entered: 12/05/2006)
12/15/2006	<u>191</u>	Emergency <i>Ex Parte</i> Application for Order Continuing Date for Opposition to Motion to Dismiss Under FRCP 12(B)(1) And 12(B)(6) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC (Attachments: # <u>1</u> Declaration of Janet D. Gertz in Support of Emergency Ex Parte Application For Order Continuing Date for Opposition to Motion to Dismiss Under FRCP 12(B)(1) and 12(B)(6)# <u>2</u> Exhibit # <u>3</u> Certificate of Service) (related documents <u>183</u> Motion to Dismiss) (Mojdehi, Ali) (Entered: 12/15/2006)
12/18/2006	<u>192</u>	<i>Notice of Substitution of Party and Substitution of Attorney. Involvement of Michael E. Busch and Kathleen A. Cashman-Kramer Terminated</i> filed by Michael E. Busch on behalf of Gerald H. Davis. (Attachments: # <u>1</u> Proof of Service # <u>2</u> Service List) (Busch, Michael) (Entered: 12/18/2006)
12/18/2006	<u>193</u>	<i>Opposition to Emergency Ex Parte Application For Order Continuing Date for Opposition to Motion to Dismiss</i> (related documents <u>191</u> Generic Motion,) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 12/18/2006)
12/18/2006	<u>194</u>	<i>Reply to Diaz Defendants' Opposition to Kismet's Emergency Ex Parte Application for Order Continuing Date for Opposition to Motion to Dismiss Under FRCP 12(B)(1) and 12(B)(6)</i> (related documents <u>193</u> Opposition,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 12/18/2006)
12/18/2006	<u>195</u>	Order on approval of Substitution of party and Substitution of Attorney (related documents <u>192</u> Substitution of Attorney,) signed on 12/18/2006. (Duran, K.) (Entered: 12/19/2006)
12/19/2006	<u>196</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>195</u> Order) (Duran, K.) (Entered: 12/19/2006)
12/19/2006	<u>197</u>	NOT APPROVED Order Granting Emergency Ex Parte Application for Order Continuing date for opposition to motion to dismiss under FRCP 12(b)(1)and 12 (B)(6). (Related Doc # <u>191</u>) signed on 12/19/2006. (related documents <u>191</u> Generic Motion,) (Duran, K.) (Entered: 12/19/2006)
12/19/2006	<u>198</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>197</u> Order re: Motion,) (Duran, K.) (Entered: 12/19/2006)

12/21/2006	<u>199</u>	Amended Order RE: Emergency Ex Parte Application for Order Continuing Date for Opposition to Motion to Dismiss Under FRCP 12(B)(1) And 12(B)(6) (related documents <u>191</u> Generic Motion) signed on 12/21/2006. (Dahl, S.) (Entered: 12/21/2006)
12/21/2006	<u>200</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>199</u> Order) (Dahl, S.) (Entered: 12/21/2006)
12/22/2006	<u>201</u>	Notice of Joinder and Joinder of in Motion to Dismiss for Lack of Subject Matter Jurisdiction and/or for Failure to State a Claim Or, in the Alternative, to Abstain w/Service filed by William L. Conti on behalf of Western Financial Assets, Inc., a Nevada corporation. (related documents <u>183</u> Motion to Dismiss) (Dahl, S.) (Entered: 12/26/2006)
12/22/2006	<u>202</u>	Notice of Joinder and Joinder of Motion to Dismiss for Lack of Subject Matter Jurisdiction and/or for Failure to State a Claim Or, in the Alternative, to Abstain w/Service filed by William L. Conti on behalf of Buckeye International Funding, Inc., a Nevada corporation. (related documents <u>183</u> Motion to Dismiss) (Dahl, S.) (Entered: 12/26/2006)
12/22/2006	<u>203</u>	Notice of Joinder and Joinder of Motion to Dismiss for Lack of Subject Matter Jurisdiction and/or for Failure to State a Claim Or, in the Alternative, to Abstain w/Service filed by William L. Conti, Donna L. Icenhower on behalf of Donna L. Icenhower, Jerry L. Icenhower. (related documents <u>183</u> Motion to Dismiss) (Dahl, S.) (Entered: 12/26/2006)
12/22/2006	<u>204</u>	Notice of Joinder and Joinder of Motion to Dismiss for Lack of Subject Matter Jurisdiction and/or for Failure to State a Claim Or, in the Alternative, to Abstain w/Service filed by William L. Conti on behalf of Johnstown Enterprises, LLC, a Nevada limited liability company. (related documents <u>183</u> Motion to Dismiss) (Dahl, S.) (Entered: 12/26/2006)
12/29/2006	<u>205</u>	Opposition to Motion to Dismiss Under FRCP 12(B)(1) and 12(B)(6) (related documents <u>183</u> Motion to Dismiss) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 12/29/2006)
01/08/2007	<u>206</u>	Reply to Opposition to Motion to Dismiss (related documents <u>183</u> Motion to Dismiss, <u>187</u> Notice of Hearing and Motion,) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 01/08/2007)
01/08/2007	<u>207</u>	Motion to Strike Portions of Kismet's Opposition to Motion to Dismiss filed by Alan Vanderhoff on behalf of Alejandro Diaz Barba (related documents <u>205</u> Opposition,) (Vanderhoff, Alan) (Entered: 01/08/2007)
01/08/2007	<u>208</u>	Response to Joinders Filed by Debtors and Related Entities (related documents <u>204</u> Notice (miscellaneous), Notice (miscellaneous), <u>203</u> Notice (miscellaneous), Notice (miscellaneous), <u>201</u> Notice (miscellaneous), Notice (miscellaneous), <u>202</u> Notice (miscellaneous), Notice (miscellaneous)) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 01/08/2007)
01/11/2007	<u>209</u>	Opposition by Kismet to Diaz Defendants' Motion to Strike Portions of Kismet's Opposition to Motion to Dismiss (related documents <u>207</u> Motion to Strike) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Request for Judicial Notice of Documents Relevant to Opposition by Kismet to Diaz Defendants' Motion to Strike Portions of Kismet's Opposition to Motion to Dismiss# <u>2</u> Exhibit A part 1 of 2# <u>3</u> Exhibit A part 2 of 2# <u>4</u> Exhibit B part 1 of 2# <u>5</u> Exhibit B part 2 of 2# <u>6</u> Certificate of Service) (Mojdehi, Ali) (Entered: 01/11/2007)
01/11/2007	<u>210</u>	Kismet's Motion to Strike Evidence in Diaz Defendants' Reply filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>206</u> Reply) (Mojdehi, Ali) (Entered: 01/11/2007)

01/16/2007	● <u>211</u>	Opposition to <i>Kismet's Request for Judicial Notice</i> (related documents <u>209</u> Opposition,,) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 01/16/2007)
01/16/2007	● <u>212</u>	Opposition to <i>Kismet's Motion to Strike Portions of the Diaz Family's Reply</i> (related documents <u>210</u> Generic Application or Motion) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 01/16/2007)
01/16/2007	● <u>213</u>	Reply to <i>Opposition to Motion to Strike Portions of Kismet's Opposition to Motion to Dismiss</i> (related documents <u>209</u> Opposition,,) filed by Alan Vanderhoff of Vanderhoff Law Group on behalf of Alejandro Diaz Barba. (Vanderhoff, Alan) (Entered: 01/16/2007)
01/18/2007	● <u>214</u>	Minute Order. Hearing DATE: 01/18/2007, MATTER: PRETRIAL STATUS CONFERENCE (fr 11/30/06) and MOTION TO DISMISS FOR LACK OF SUBJECT MATTER JURISDICTION AND FOR FAILURE TO STATE A CLAIM OR, IN THE ALTERNATIVE, TO ABSTAIN FILED BY ALAN VANDERHOFF ON BEHALF OF ALEJANDRO DIAZ BARBA.. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (37149)). HEARING Scheduled for 04/26/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial, <u>183</u> Motion to Dismiss) (Fearce, K.) (Entered: 01/18/2007)
01/25/2007	● <u>215</u>	Notice of Lodgment of Order on (1) <i>Diaz' Motion to Dismiss for Lack of Subject Matter Jurisdiction and for Failure to State a Claim</i> ; (2) <i>Diaz' Motion to Strike Portions of Kismet's Opposition to Motion to Dismiss</i> ; (3) <i>Kismet's Motion to Strike Evidence in Diaz Defendants' Reply</i> ; (4) <i>Diaz Defendants' Response to Joinders filed by Debtors and Related Entities</i> ; and (5) <i>Leave to File Amended Complaint</i> with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>204</u> Notice (miscellaneous), Notice (miscellaneous), <u>203</u> Notice (miscellaneous), Notice (miscellaneous), <u>183</u> Motion to Dismiss, <u>201</u> Notice (miscellaneous), Notice (miscellaneous), <u>210</u> Generic Application or Motion, <u>202</u> Notice (miscellaneous), Notice (miscellaneous), <u>207</u> Motion to Strike) (Mojdehi, Ali) (Entered: 01/25/2007)
02/13/2007	● <u>216</u>	Order on 1) Diaz Motion to Dismiss for Lack of Subject matter etc. 2) Diaz Motion to strike Portions of Kismet's opposition to Motion to Dismiss 3) Kismet's Motion to strike evidence in Diaz Reply 4) Diaz Response to Joinder filed by debtors and 5) Leave to file Amended complaint (related documents <u>215</u> Notice of Lodgment of Order,) signed on 2/13/2007. (Duran, K.) (Entered: 02/13/2007)
02/13/2007	● <u>217</u>	Notice of Entry of Judgment or Order (related documents <u>216</u> Order,) (Duran, K.) (Entered: 02/13/2007)
02/16/2007	● <u>218</u>	Notice of Motion and Hearing with Certificate of Service <i>Re Motion in Support of Plaintiff Kismet Acquisition, LLC's Motion (1) to Compel Responses to Requests for Production of Documents from Craig Kelley Under FRCP 37(a)(2)(b); and (ii) for Sanctions and Award of Expenses Under FRCP 37(a)(4) and (d) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. HEARING Scheduled for 3/29/2007 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse</i> . Notice of Motion and Hearing Served On: 2/16/2007. Unless an Order Shortening Time has been entered, Opposition due by: 3/5/2007. (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Plaintiff Kismet Acquisition, LLC's Motion (i) to Compel Responses to Requests for Production of Documents from Craig Kelley Under FRCP 37(a)(2)(b); and (ii) for Sanctions and Award of Expenses Under FRCP 37(a)(4) and (d)# <u>2</u> Declaration of Janet D. Gertz in Support of Plaintiff Kismet Acquisition, LLC's Motion (i) to Compel Responses to Requests for Production of Documents from Craig Kelley Under FRCP 37(a)(2)(b); and (ii) for Sanctions and Award of Expenses Under FRCP 37(a)(4) and (d)# <u>3</u> Exhibit A-G# <u>4</u> Certificate of Service) (Mojdehi, Ali) (Entered: 02/16/2007)
03/16/2007	● <u>219</u>	Amended Complaint by Kismet Acquisition, LLC against Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz,

		DOES 1 through 50, inclusive, Columbus Enterprises, LLC, a Nevada limited liability company, Newark Enterprises, LLC, a Nevada limited liability company, Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee, Alejandro Diaz Barba, Buckeye International Funding, Inc., a Nevada corporation, Martha Diaz, Howell & Gardner Investors, Inc., Donna L. Icenhower, Jerry L. Icenhower, Johnstown Enterprises, LLC, a Nevada limited liability company, Craig Kelley, an individual, Robert Miller, Western Financial Assets, Inc., a Nevada corporation . filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A-I# <u>2</u> Exhibit J-K# <u>3</u> Exhibit L-M) (Mojdehi, Ali) (Entered: 03/16/2007)
03/16/2007	● <u>220</u>	Emergency <i>Ex Parte</i> Application by Plaintiff Kismet Acquisition, LLC To File Its First Amended Complaint filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>219</u> Complaint,,,) (Mojdehi, Ali) (Entered: 03/16/2007)
03/16/2007	● <u>221</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>219</u> Complaint,, , <u>220</u> Generic Application or Motion) (Mojdehi, Ali) (Entered: 03/16/2007)
03/20/2007	● <u>222</u>	Order Granting Application (Related Doc # <u>220</u>) signed on 3/20/2007. (related documents <u>219</u> Complaint) (Crosby, A.C.) (Entered: 03/20/2007)
03/20/2007	● <u>223</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>222</u> Generic Order re: Application) (Crosby, A.C.) (Entered: 03/20/2007)
03/28/2007	● <u>224</u>	Stipulation and Order signed on 3/28/2007. (Dahl, S.) (Entered: 03/29/2007)
03/29/2007	● <u>225</u>	Minute Order. Hearing DATE: 03/29/2007, MATTER: MOTION IN SUPPORT OF PLAINTIFF KISMET ACQUISITION, LLC'S MOTION (I) TO COMPEL RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS FROM CRAIG KELLEY UNDER FRCP 37(A)(2)(B); AND (II) FOR SANCTIONS AND AWARD OF EXPENSES UNDER FRCP 37(A)(4). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (41364)). (related documents <u>218</u> Notice of Hearing and Motion, , , ,) (Fearce, K.) (Entered: 03/29/2007)
04/04/2007	● <u>226</u>	Order on Kismet Acquisition 1) To Compel Responses for Production of Documents and 2) For Sanctions and Award of Expenses (related documents <u>218</u> Notice of Hearing and Motion,) signed on 4/4/2007. (Duran, K.) (Entered: 04/04/2007)
04/04/2007	● <u>227</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>226</u> Order) (Duran, K.) (Entered: 04/04/2007)
04/04/2007	● <u>228</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>226</u> Order) (Mojdehi, Ali) (Entered: 04/04/2007)
04/04/2007	● <u>229</u>	ALIAS Summons Issued on Alejandro Diaz Barba Answer Due 5/4/2007; Buckeye International Funding, Inc., a Nevada corporation Answer Due 5/4/2007; Columbus Enterprises, LLC, a Nevada limited liability company Answer Due 5/4/2007; DOES 1 through 50, inclusive Answer Due 5/4/2007; Martha Diaz Answer Due 5/4/2007; Howell & Gardner Investors, Inc. Answer Due 5/4/2007; Donna L. Icenhower Answer Due 5/4/2007 (Duran, K.) (Entered: 04/05/2007)
04/06/2007	● <u>230</u>	Ex Parte Application of Plaintiff Kismet Acquisition, LLC for Order to Show Cause why Kocherga Should Not be Held in Contempt and Sanctioned for Failure to Respond to Plaintiff's Subpoena for Documents filed by Ali M.M. Mojdehi on behalf of Kismet

		Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A-Declaration of Janet Gertz in Support of Plaintiff's Ex Parte Application of Plaintiff Kismet Acquisition, LLC for Order to Show Cause why Kocherga Should Not be Held in Contempt and Sanctioned for Failure to Respond to Plaintiff's Subpoena for Documents) (Mojdehi, Ali) (Entered: 04/06/2007)
04/09/2007	<u>231</u>	Answer to Complaint (related documents <u>1</u> Complaint,) filed by Robert L. Rentto of Law Offices Of Robert L. Rentto on behalf of Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 04/09/2007)
04/10/2007	<u>232</u>	Order on Ex Parte Application to show Cause. HEARING Scheduled for 5/16/2007 at 11:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>230</u> Generic Application or Motion,) Kochenga must file Opposition papers by 5/25/07, signed on 4/10/2007. (Duran, K.) (Entered: 04/10/2007)
04/10/2007	<u>233</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>232</u> Order to Schedule/Continue Hearing,) (Duran, K.) (Entered: 04/10/2007)
04/12/2007	<u>234</u>	Notice of Compliance Fed Rule 7016 & LR 7016(1&2) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A - Certificate of Compliance with Early Conference of Counsel# <u>2</u> Exhibit B - (Amended) Certificate of Compliance with Early Conference of Counsel) (Mojdehi, Ali) (Entered: 04/12/2007)
04/12/2007	<u>235</u>	Alias Summons Served on: Columbus Enterprises, LLC, a Nevada limited liability company, Newark Enterprises, LLC, a Nevada limited liability company. Served On 04/12/07 filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 04/12/2007)
04/12/2007	<u>236</u>	Amended Order Granting Ex Parte Application of Plaintiff Kismet Acquisition, LLC for Order to Show Cause why Kocherga Should Not be Held in Contempt and Sanctioned for Failure to Respond to Plaintiff's Subpoena for Documents (Related Doc # <u>230</u> , <u>232</u> Order) signed on 4/12/2007. (Dahl, S.) (Entered: 04/13/2007)
04/12/2007	<u>238</u>	Counterclaim by Alejandro Diaz Barba, Martha Diaz against Kismet Acquisition, LLC and <i>THIRD-PARTY COMPLAINT Against Kismet Acquisition II, LLC, Axolotl S.A., Wolfgang Hahn, and Dieter Hahn</i> (related documents <u>1</u> Complaint,, <u>219</u> Complaint,,) filed by Malte L. Farnaes on behalf of Alejandro Diaz Barba, Martha Diaz. (Dahl, S.) (Entered: 04/13/2007)
04/12/2007	<u>239</u>	Third Party Summons Issued on: Axolotl S.A. Answer Due 5/14/2007; Dieter Hahn Answer Due 5/14/2007; Wolfgang Hahn Answer Due 5/14/2007; Kismet Acquisition II, LLC Answer Due 5/14/2007. (Dahl, S.) (Entered: 04/13/2007)
04/12/2007	<u>240</u>	Answer to First Amended Complaint (related documents <u>219</u> Complaint) filed by Malte L. Farnaes of Ross, Dixon & Bell, LLP on behalf of Alejandro Diaz Barba, Martha Diaz. (Dahl, S.) (Entered: 04/13/2007)
04/12/2007	<u>241</u>	Proof of Service (related documents <u>240</u> Answer to Complaint, <u>238</u> Counterclaim,) filed by Malte L. Farnaes, Alejandro Diaz Barba on behalf of Alejandro Diaz Barba, Martha Diaz. (Dahl, S.) (Entered: 04/13/2007)
04/13/2007	<u>237</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (Dahl, S.) (Entered: 04/13/2007)

04/16/2007	<u>242</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>236</u> Generic Order re: Application,) (Mojdehi, Ali) (Entered: 04/16/2007)
04/16/2007	<u>243</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>236</u> Generic Order re: Application,) (Mojdehi, Ali) (Entered: 04/16/2007)
04/16/2007	<u>244</u>	<i>Affidavit of Janet D. Gertz in Support of Service of Complaint and Summons on Howell and Gardner, A Nevada Corporation by Delivery of the Complaint to Nevada Secretary of State</i> (related documents <u>234</u> Notice of Compliance Fed Rule 7016 & LR 7016(1&2), <u>232</u> Order to Schedule/Continue Hearing,, <u>219</u> Complaint,,,, <u>235</u> Return of Summons Served,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 04/16/2007)
04/23/2007	<u>245</u>	Proof of Service filed by Robert L. Rentto on behalf of Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee. (related documents <u>231</u> Answer to Complaint,) (Duran, K.) (Entered: 04/23/2007)
04/25/2007	<u>246</u>	<i>Declaration of Eugenio Kocherga Gummerson in Response to Order to Show Cause Why Kocherga should not be held in Contempt and Sanctioned for failure to respond to Subpoena for documents</i> (related documents <u>236</u> Generic Order re: Application,) filed by Stephen B. Morris. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) Modified on 5/17/2007 (Hakow, A.). (Entered: 04/25/2007)
04/25/2007	<u>247</u>	<i>Declaration of Nicolas Eugenio Kocherga Gummerson</i> (related documents <u>236</u> Generic Order re: Application,) filed by Stephen B. Morris. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) Modified on 5/17/2007 (Hakow, A.). (Entered: 04/25/2007)
04/26/2007	<u>248</u>	Minute Order. Hearing DATE: 04/26/2007, MATTER: PRETRIAL STATUS CONFERENCE (fr 1/18/07). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (40063)). HEARING Scheduled for 06/28/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial) (Fearce, K.) (Entered: 04/26/2007)
04/30/2007	<u>249</u>	Substitution of Attorney. Stephen B. Morris for Alejandro Diaz Barba and Martha Diaz Involvement of Fletcher W. Paddison Terminated filed by Fletcher W. Paddison, Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 04/30/2007)
05/10/2007	<u>250</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>236</u> Generic Order re: Application,) (Mojdehi, Ali) (Entered: 05/10/2007)
05/10/2007	<u>251</u>	Supplemental Statement In Support Of Order To Show Cause Why Kocherga Should Not Be Held In Contempt And Sanctioned For Failure To Respond To Plaintiff's Subpoena For Documents filed by Janet D. Gertz on behalf of Kismet Acquisition, LLC. (related documents <u>236</u> Generic Order re: Application,) (Gertz, Janet) (Entered: 05/10/2007)
05/11/2007	<u>252</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>251</u> Statement,) (Mojdehi, Ali) (Entered: 05/11/2007)
05/16/2007	<u>253</u>	Minute Order. Hearing DATE: 05/16/2007, MATTER: APPLICATION OF PLAINTIFF KISMET ACQUISITION, LLC FOR ORDER TO SHOW CAUSE WHY KOCHERGA SHOULD NOT BE HELD IN CONTEMPT AND SANCTIONED FOR FAILURE TO RESPOND TO PLAINTIFF'S SUBPOENA FOR DOCUMENTS. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (44377)). HEARING Scheduled for 06/07/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Pearson, M.) (Entered: 05/16/2007)
05/17/2007	<u>254</u>	<i>Robert P. Miller's Profit Sharing Plan and Trust</i> filed by Robert L. Rentto on behalf of

		Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee. (Crosby, A.C.) (Entered: 05/17/2007)
05/17/2007	<u>255</u>	Declaration of Robert L. Rentto in Support of Profit Sharing Plan (related documents <u>254</u> Generic Document) filed by Robert L. Rentto of Law Offices Of Robert L. Rentto on behalf of Robert Miller. (Crosby, A.C.) (Entered: 05/17/2007)
05/17/2007	<u>256</u>	Notice of Exhibits in Support (related documents <u>254</u> Generic Document) filed by Robert L. Rentto on behalf of Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee. (Crosby, A.C.) (Entered: 05/17/2007)
05/17/2007	<u>257</u>	Proof of Service filed by Robert L. Rentto of Law Offices Of Robert L. Rentto on behalf of Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee. (related documents <u>254</u> Generic Document, <u>256</u> Notice (miscellaneous), <u>255</u> Declaration in Support) (Crosby, A.C.) (Entered: 05/17/2007)
05/21/2007	<u>258</u>	Response of Plaintiff Kismet Acquisition, LLC to Robert Miller et al's Ex Parte Application for an Order Continuing the Deadline to Conduct a Meet and Confer Conference to May 31, 2007 (related documents <u>254</u> Generic Document) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration of Janet Gertz in Support of Response of Plaintiff Kismet Acquisition, LLC to Robert Miller et al's Ex Parte Application for an Order Continuing the Deadline to Conduct a Meet and Confer Conference to May 31, 2007# <u>2</u> Certificate of Service) (Mojdehi, Ali) (Entered: 05/21/2007)
05/22/2007	<u>259</u>	Joint Stipulation Regarding Counterclaim by Alex Diaz and Martha Diaz Against Kismet Acquisition, LLC filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>238</u> Counterclaim,) (Mojdehi, Ali) (Entered: 05/22/2007)
05/22/2007	<u>260</u>	NOT APPROVED ORDER ON Robert Miller's, Robert P. Miller D.D.S., Profit Sharing Plan and Trust's and Robert P. Miller, D.D.S., Trustee's Ex Parte Application For An Order Continuing The Deadline To Conduct A Meet and Confer Conference To May 31, 2007 (related documents <u>257</u> Proof of Service, <u>256</u> Notice (miscellaneous), <u>254</u> Generic Document, <u>255</u> Declaration in Support) signed on 5/22/2007. (Schmitt, T.) (Entered: 05/23/2007)
05/22/2007	<u>261</u>	Order on Joint Stipulation Regarding Counterclaim by Alex Diaz and Martha Diaz Against Kismet Acquisition, LLC (related documents <u>259</u> Stipulation) signed on 5/22/2007. (Schmitt, T.) Additional attachment(s) added on 5/23/2007 (Dahl, S.). (Entered: 05/23/2007)
05/23/2007	<u>262</u>	Notice of Entry of Order (Entered: 05/23/2007)
06/07/2007	<u>263</u>	Minute Order. Hearing DATE: 06/07/2007, MATTER: APPLICATION OF PLAINTIFF KISMET ACQUISITION, LLC FOR ORDER TO SHOW CAUSE WHY KOCHERGA SHOULD NOT BE HELD IN CONTEMPT AND SANCTIONED FOR FAILURE TO RESPOND TO PLAINTIFF'S SUBPOENA FOR DOCUMENTS (fr 5/16). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (46082)). (Fearce, K.) (Entered: 06/07/2007)
06/11/2007	<u>264</u>	Reply by Kismet Acquisiton to Counterclaims by Alex and Martha Diaz (Related Doc # <u>238</u> (counterclaim) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of on behalf of Kismet Acquisition, LLC, Kismet Acquisition, LLC. (Mojdehi, Ali) Modified on 6/12/2007 (Duran, K.). (Entered: 06/11/2007)
06/11/2007	<u>265</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC, Kismet Acquisition, LLC. (related documents <u>264</u> Answer to Complaint) (Mojdehi, Ali) (Entered: 06/11/2007)
06/11/2007	<u>266</u>	Notice of Motion and Motion to Dismiss Third Party Complaint By Alex Diaz And Martha

		<i>Diaz Against Kismet Acquisition II, LLC</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition II, LLC. (related documents <u>238</u> Counterclaim,) (Mojdehi, Ali) (Entered: 06/11/2007)
06/11/2007	<u>267</u>	Memorandum of Points and Authorities In Support Of Motion To Dismiss Third Party Complaint By Alex Diaz And Martha Diaz Against Kismet Acquisition II, LLC (related documents <u>266</u> Motion to Dismiss,, <u>238</u> Counterclaim,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition II, LLC. (Mojdehi, Ali) (Entered: 06/11/2007)
06/11/2007	<u>268</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition II, LLC. (related documents <u>266</u> Motion to Dismiss,, <u>267</u> Memorandum of Points and Authorities,) (Mojdehi, Ali) (Entered: 06/11/2007)
06/12/2007	<u>269</u>	HEARING Scheduled for 7/26/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>266</u> Motion to Dismiss,) (Duran, K.) (Entered: 06/12/2007)
06/18/2007	<u>270</u>	<i>Notice of Motion and Motion of Plaintiff Kismet Acquisition, LLC Pursuant to FRCP 7037 for an Order 1) Compelling Production of Documents from Robert Miller; and 2) Awarding Sanctions for Failure to Comply with Discovery Obligations</i> - Notice of Motion and Hearing with Certificate of Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. HEARING Scheduled for 7/26/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse . Notice of Motion and Hearing Served On: 6/18/2007. Unless an Order Shortening Time has been entered, Opposition due by: 7/5/2007. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 06/18/2007)
06/18/2007	<u>271</u>	Memorandum of Points and Authorities in Support of Motion of Plaintiff Kismet Acquisition, LLC Pursuant to FRCP 7037 for an Order: 1) Compelling Production of Documents from Defendant Robert Miller; and 2) Awarding Sanctions for Failure to Comply with Discovery Obligations filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>270</u> Notice of Hearing and Motion,,) (Mojdehi, Ali) (Entered: 06/18/2007)
06/18/2007	<u>272</u>	Declaration of Ali M.M. Mojdehi in Support of Motion of Plaintiff Kismet Acquisition, LLC Pursuant to FRCP 7037 for an Order: 1) Compelling Production of Documents from Defendant Robert Miller; and 2) Awarding Sanctions for Failure to Comply with Discovery Obligations (related documents <u>270</u> Notice of Hearing and Motion,,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit) (Mojdehi, Ali) (Entered: 06/18/2007)
06/18/2007	<u>273</u>	Declaration of Janet D. Gertz in Support of Motion of Plaintiff Kismet Acquisition, LLC Pursuant to FRCP 7037 for an Order: 1) Compelling Production of Documents from Defendant Robert Miller; and 2) Awarding Sanctions for Failure to Comply with Discovery Obligations (related documents <u>270</u> Notice of Hearing and Motion,,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A - D# <u>2</u> Exhibit E - N) (Mojdehi, Ali) (Entered: 06/18/2007)
06/28/2007	<u>274</u>	Memorandum of Points and Authorities in Opposition to Motion to Dismiss Third Party Complaint (related documents <u>266</u> Motion to Dismiss,) filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 06/28/2007)
06/28/2007	<u>275</u>	Minute Order. Hearing DATE: 06/28/2007, MATTER: PRETRIAL STATUS CONFERENCE (fr 1/18/07) and MINUTE ORDER. PRETRIAL STATUS CONFERENCE CONTINUED TO 5/18/2006 AT 02:00 PM AT COURTROOM 2, ROOM 118, WEINBERGER COURTHOUSE; MR. BUSCH TO FILE AN AMENDED COMPLAINT.. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (45123)). HEARING Scheduled for 01/17/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial) (Fearce, K.) (Entered: 06/28/2007)

06/28/2007	<u>280</u>	Amended Minute Order. Hearing DATE: 06/28/2007, MATTER: PRETRIAL STATUS CONFERENCE (fr 1/18/07). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (48739)). (related documents <u>129</u> Minute Order Pretrial SC, Pretrial, Trial) (Fearce, K.) Modified on 7/3/2007 (Fearce, K.). (Entered: 07/03/2007)
06/29/2007	<u>276</u>	Notice of Motion and Motion to Dissolve Preliminary Injunction filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 07/02/2007)
06/29/2007	<u>277</u>	Declaration of Alejandro Diaz-Barba in Support of Motion to Dissolve Preliminary Injunction (related documents <u>276</u> Notice of Motion and Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 07/02/2007)
06/29/2007	<u>278</u>	Proof of Service filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>277</u> Declaration in Support,, <u>276</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 07/02/2007)
06/29/2007	<u>279</u>	Amended Proof of Service filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>277</u> Declaration in Support,, <u>278</u> Proof of Service,, <u>276</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 07/02/2007)
07/12/2007	<u>281</u>	HEARING Scheduled for 8/9/2007 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>276</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 07/12/2007)
07/12/2007	<u>282</u>	Kismet's Emergency Ex Parte Application for an Order Continuing the Opposition and Hearing Dates Associated with the Diaz Defendants' Motion to Dissolve Preliminary Injunction Motion for Ex Parte Relief filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC (related documents <u>276</u> Notice of Motion and Motion,) (Mojdehi, Ali) (Entered: 07/12/2007)
07/12/2007	<u>283</u>	Declaration of Janet D. Gertz in Support of Kismet's Emergency Ex Parte Application for an Order Continuing the Opposition and Hearing Dates Associated with the Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>282</u> Motion for Ex Parte Relief,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A - F) (Mojdehi, Ali) (Entered: 07/12/2007)
07/13/2007	<u>284</u>	Certificate of Service of Fourth Amended Notice of Taking Deposition of Defendant Craig Kelley and Notice to Produce Documents filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/13/2007)
07/13/2007	<u>285</u>	Certificate of Service (related documents <u>283</u> Declaration in Support,, <u>282</u> Motion for Ex Parte Relief,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/13/2007)
07/13/2007	<u>286</u>	Reply to Opposition to Motion to Dismiss Third Party Complaint by Alex Diaz and Martha Diaz Against Kismet Acquisition II, LLC (related documents <u>274</u> Memorandum of Points and Authorities,, <u>266</u> Motion to Dismiss,, <u>267</u> Memorandum of Points and Authorities,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition II, LLC, Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration of Janet D. Gertz in Support of Reply to Opposition to Motion to Dismiss Third Party Complaint by Alex Diaz and Martha Diaz Against Kismet Acquisition II, LLC# <u>2</u> Certificate of Service) (Mojdehi, Ali) (Entered: 07/13/2007)

		07/13/2007)
07/16/2007	<u>287</u>	Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>276</u> Notice of Motion and Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/16/2007)
07/16/2007	<u>288</u>	Declaration of Janet D. Gertz in Support of Kismet's Opposition to the Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>287</u> Opposition) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/16/2007)
07/17/2007	<u>289</u>	Certificate of Service (related documents <u>288</u> Declaration,, <u>287</u> Opposition) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/17/2007)
07/17/2007	<u>290</u>	Statement : Errata to Kismet Acquisition, LLC's Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>287</u> Opposition) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/17/2007)
07/18/2007	<u>291</u>	Certificate of Service (related documents <u>290</u> Statement,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/18/2007)
07/18/2007	<u>292</u>	Certificate of Service (related documents <u>288</u> Declaration,, <u>287</u> Opposition) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 07/18/2007)
07/20/2007	<u>293</u>	Response and Opposition to Ex Parte Application Continuing the Opposition and Hearing Dates (related documents <u>282</u> Motion for Ex Parte Relief,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 07/23/2007)
07/20/2007	<u>294</u>	Declaration of Mark Hinkley in Opposition to Ex Parte Application (related documents <u>282</u> Motion for Ex Parte Relief,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 07/23/2007)
07/20/2007	<u>295</u>	Declaration of Angelina Rudo in Opposition to Ex Parte Application (related documents <u>282</u> Motion for Ex Parte Relief,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 07/23/2007)
07/20/2007	<u>296</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>295</u> Declaration in Opposition,, <u>293</u> Response,, <u>294</u> Declaration in Opposition,) (Duran, K.) (Entered: 07/23/2007)
07/23/2007	<u>297</u>	Memorandum of Points and Authorities in support of Motion to Dissolve Preliminary Injunction (related documents <u>282</u> Motion for Ex Parte Relief,) filed by Stephen B. Morris Error: party not known. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 07/23/2007)
07/23/2007	<u>298</u>	Order GRANTING Plaintiff's Emergency Ex Parte Application for Order Continuing Opposition & Hearing Dates associated w/the Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>282</u> Motion for Ex Parte Relief, <u>276</u> Notice of Motion and Motion) signed on 7/23/2007 -- HEARING Continued for 10/4/2007 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse . (McGrew, J.) (Entered: 07/23/2007)

		07/23/2007)
07/23/2007	● 299	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to Attorney for Plaintiff (Mojdehi), and Trustee, at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk(related documents <u>298</u> Order to Continue Hearing) (McGrew, J.) (Entered: 07/23/2007)
07/23/2007	● 300	Emergency <i>Ex Parte</i> Application for an Order: (i) <i>Compelling Defendant Craig Kelley to Appear for Deposition; and (ii) for Sanctions and Award of Expenses</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration of Ali M.M. Mojdehi in Support of Plaintiff Kismet Acquisition, Emergency <i>Ex Parte</i> Application for an Order: (i) <i>Compelling Defendant Craig Kelley to Appear for Deposition; and (ii) for Sanctions and Award of Expenses</i> # <u>2</u> Declaration of Janet G. Gertz in Support of Plaintiff Kismet Acquisition, LLC's, Emergency <i>Ex Parte</i> Application for an Order: (i) <i>Compelling Defendant Craig Kelley to Appear for Deposition; and (ii) for Sanctions and Award of Expenses</i>) (related documents <u>226</u> Order, <u>218</u> Notice of Hearing and Motion,,,,,) (Mojdehi, Ali) (Entered: 07/23/2007)
07/26/2007	● 301	Order Granting <i>Ex Parte</i> Application for 1) <i>Compelling Craig Kelley to Appear for Deposition and 2) For Sanctions and award for expenses</i> (Related Doc # <u>300</u>) signed on 7/26/2007. (related documents <u>300</u> Generic Application or Motion,) (Duran, K.) (Entered: 07/26/2007)
07/26/2007	● 302	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>301</u> Generic Order re: Application,) (Duran, K.) (Entered: 07/26/2007)
07/26/2007	● 303	Minute Order. Hearing DATE: 07/26/2007, MATTER: PLAINTIFF'S MOTION TO DISMISS THIRD PARTY COMPLAINT BY ALEX DIAZ AND MARTHA DIAZ AGAINST KISMET ACQUISITION II, LLC FILED BY ALI M.M. MOJDEHI. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (47405)). (related documents <u>266</u> Motion to Dismiss,) (Fearce, K.) (Entered: 07/26/2007)
08/07/2007	● 304	<i>Plaintiff Kismet Acquisition, LLC's Motion and Motion for Allowance of Attorneys' Fees and Costs Incurred in Compelling Discovery Responses from Defendant Craig Kelley - Notice of Motion and Hearing with Certificate of Service</i> filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. HEARING Scheduled for 10/11/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse. Notice of Motion and Hearing Served On: 8/7/2007. Unless an Order Shortening Time has been entered, Opposition due by: 8/24/2007. (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Plaintiff Kismet Acquisition, LLC's Motion for Allowance of Attorneys' Fees and Costs Incurred in Compelling Discovery Responses from Defendant Craig Kelley# <u>2</u> Declaration of Ali M.M. Mojdehi in Support of Plaintiff Kismet Acquisition, LLC's Motion for Allowance of Attorneys' Fees and Costs Incurred in Compelling Discovery Responses from Defendant Craig Kelley# <u>3</u> Certificate of Service) (Mojdehi, Ali) (Entered: 08/07/2007)
08/09/2007	● 305	Order Granting Motion to Dismiss Third Party Complaint (Related Doc # <u>266</u>) signed on 8/9/2007. (Duran, K.) (Entered: 08/09/2007)
08/09/2007	● 306	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>305</u> Order re: Motion to Dismiss) (Duran, K.) (Entered: 08/09/2007)
09/20/2007	● 307	<i>Notice of Motion and Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4)</i> Notice of Motion and Hearing with Certificate of

		Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. HEARING Scheduled for 11/8/2007 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse . Notice of Motion and Hearing Served On: 9/20/2007. Unless an Order Shortening Time has been entered, Opposition due by: 10/9/2007. (Attachments: # <u>1</u> Memorandum of Points and Authorities in Support of Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4)# <u>2</u> Declaration of Janet D. Gertz in Support of Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba; and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4)) (Mojdehi, Ali) (Entered: 09/20/2007)
09/20/2007	<u>308</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>307</u> Notice of Hearing and Motion,,,) (Mojdehi, Ali) (Entered: 09/20/2007)
09/20/2007	<u>309</u>	Kismet Acquisition, LLC's Supplemental Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) Modified on 9/21/2007 (Herbold, K.). (Entered: 09/20/2007)
09/20/2007	<u>310</u>	Supplemental Declaration of Janet D. Gertz in Support of Kismet Acquisition LLC's Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>309</u> Opposition) (Mojdehi, Ali) Modified on 9/21/2007 (Herbold, K.). (Entered: 09/21/2007)
09/21/2007	<u>311</u>	Exhibit A - B to Supplemental Declaration of Janet D. Gertz in Support of Opposition to Motion to Dissolve Preliminary Injunction filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit C - L to Supplemental Declaration of Janet D. Gertz in Support of Opposition to Motion to Dissolve Preliminary Injunction) (related documents <u>310</u> Acknowledgment) (Mojdehi, Ali) (Entered: 09/21/2007)
09/21/2007	<u>312</u>	Supplemental Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>307</u> Notice of Hearing and Motion,,,) (Mojdehi, Ali) (Entered: 09/21/2007)
09/21/2007	<u>313</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>309</u> Opposition,, <u>310</u> Acknowledgment,) (Mojdehi, Ali) (Entered: 09/21/2007)
09/21/2007	<u>314</u>	Statement : Errata to Kismet Acquisition, LLC's Supplemental Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>309</u> Opposition,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 09/21/2007)
09/21/2007	<u>315</u>	Second Supplemental Declaration of Janet D. Gertz in Support of Kismet Acquisition, LLC's Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction (related documents <u>309</u> Opposition,, <u>314</u> Statement,, <u>287</u> Opposition) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 09/21/2007)
09/21/2007	<u>316</u>	Certificate of Service of Christopher A. Stauble (related documents <u>315</u> Declaration,, <u>314</u> Statement,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 09/21/2007)
09/27/2007	<u>317</u>	Objection to Evidence to Opposition to Motion to Dissolve Preliminary Injunction (related documents <u>309</u> Opposition,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Duran, K.) (Entered: 09/27/2007)
09/27/2007	<u>318</u>	Memorandum of Points and Authorities in support of Motion to Dissolve Preliminary Injunction (related documents <u>309</u> Opposition,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Duran, K.) (Entered: 09/27/2007)

09/27/2007	<u>319</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (related documents <u>317</u> Objection, <u>318</u> Memorandum of Points and Authorities) (Duran, K.) (Entered: 09/27/2007)
10/02/2007	<u>320</u>	<i>Third Supplemental Declaration of Janet D. Gertz in Support of Kismet Acquisition, LLC's Opposition to Diaz Defendants' Motion to Dissolve Preliminary Injunction</i> (related documents <u>309</u> Opposition,, <u>287</u> Opposition) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 10/02/2007)
10/04/2007	<u>321</u>	Minute Order. Hearing DATE: 10/04/2007, MATTER: MOTION TO DISSOLVE PRELIMINARY INJUNCTION FILED BY STEPHEN B. MORRIS ON BEHALF OF ALEJANDRO DIAZ BARBA, MARTHA MARGARITA BARBA DE LA TORRE. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (49660)). (related documents <u>276</u> Notice of Motion and Motion,) (Fearce, K.) (Entered: 10/04/2007)
10/09/2007	<u>322</u>	Memorandum of Points and Authorities in Opposition to Motion to Compel (related documents <u>307</u> Notice of Hearing and Motion,,,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 10/09/2007)
10/11/2007	<u>323</u>	Notice of Lodgment of Order <i>on Diaz Defendants' Motion to Dissolve Preliminary Injunction</i> with Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>276</u> Notice of Motion and Motion,) (Mojdehi, Ali) (Entered: 10/11/2007)
10/30/2007	<u>324</u>	Transcript hearing held on Oct 4, 2007. You are noticed that a transcript has been filed with the court. Pursuant to the Judicial Conference Policy on Privacy, access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a <i>Notice of Intent to Request Redaction</i> of any social security numbers, financial account data, names of minor-age children, dates of birth, and home addresses. If redaction is requested, the filing party has 21 calendar days from the date the <i>notice of intent to request redaction</i> was filed to file a list of items to be redacted indicating the location of the identifiers within the transcript with the court and to provide the list to the court reporter. The transcript will be made electronically available to the general public if no request for redaction is timely filed with the court or after requested redaction are made by the court reporter. (related documents <u>321</u> Minute Order,) (Duran, K.) (Entered: 10/30/2007)
10/30/2007	<u>325</u>	<i>Reply of Kismet to Diaz Defendants' Opposition to Motion for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, an individual, Under FRCP 37(A)(2)(B); and (ii) Awarding Sanctions and Expenses Under FRCP 37(A)(4)</i> (related documents <u>307</u> Notice of Hearing and Motion,,,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 10/30/2007)
10/31/2007	<u>326</u>	Court Certificate of Mailing (related documents <u>324</u> Transcript, , ,) Service Date 11/01/2007. (Admin.) (Entered: 11/01/2007)
11/08/2007	<u>327</u>	Minute Order. Hearing DATE: 11/08/2007, MATTER: MOTION OF PLAINTIFF KISMET ACQUISITION, LLC FOR AN ORDER: (I) COMPELLING DEPOSITION TESTIMONY FROM ALEJANDRO DIAZ-BARBA, AND (II) AWARDING SANCTIONS AND EXPENSES UNDER FRCP 37(A)(4). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (52380)). (related documents <u>307</u> Notice of Hearing and Motion, , ,) (Fearce, K.) (Entered: 11/08/2007)
11/09/2007	<u>328</u>	Order (related documents <u>323</u> Notice of Lodgment of Order,) signed on 11/9/2007. (Schmitt, T.) (Entered: 11/09/2007)
11/09/2007	<u>329</u>	Notice of Entry of Order (related documents <u>328</u> Order) (Schmitt, T.) (Entered: 11/09/2007)

11/12/2007	● <u>330</u>	Notice of Lodgment of Order on Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, An Individual, aka Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirio A. Diaz and Porfirio Diaz Under FRCP 37(a)(2)(b); and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4) with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>307</u> Notice of Hearing and Motion,,,,) (Mojdehi, Ali) (Entered: 11/12/2007)
11/14/2007	● <u>331</u>	Amended Notice of Lodgment of Order on Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, an individual, also known as Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirio A. Diaz and Porfirio Diaz Under FRCP 37(a)(2)(B); and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4) with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>330</u> Notice of Lodgment of Order,,) (Mojdehi, Ali) (Entered: 11/14/2007)
11/15/2007	● <u>332</u>	Declaration of Janet D. Gertz in Support of Plaintiff Kismet Acquisition, LLC's Motion for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, an individual, also known as Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirio A. Diaz and Porfirio Diaz Under FRCP 37(a)(2)(B); and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4) (related documents <u>327</u> Minute Order,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 11/15/2007)
11/19/2007	● <u>333</u>	Notice of Non-Representation and Request for Removal from Service Lists filed by Alan Vanderhoff on behalf of Martha Diaz. (Vanderhoff, Alan) (Entered: 11/19/2007)
11/19/2007	● <u>334</u>	Memorandum of Points and Authorities in Opposition to Request for Sanctions (related documents <u>307</u> Notice of Hearing and Motion,,,,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 11/20/2007)
11/19/2007	● <u>335</u>	NOT APPROVED Order on Motion for an Order 1) Compelling Deposition Testimony and 2) Awarding Sanctions and Expenses (related documents <u>307</u> Notice of Hearing and Motion,) signed on 11/19/2007. (Duran, K.) (Entered: 11/20/2007)
11/26/2007	● <u>336</u>	Statement In Support of Plaintiff Kismet Acquisition, LLC's Motion for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, an Individual, also known as Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirio A. Diaz and Porfirio Diaz Under FRCP 37(a)(2)(B); and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>307</u> Notice of Hearing and Motion,,,,) (Mojdehi, Ali) (Entered: 11/26/2007)
11/27/2007	● <u>337</u>	Second Amended Notice of Lodgment of Order on Motion of Plaintiff Kismet Acquisition, LLC for an Order: (i) Compelling Deposition Testimony from Alejandro Diaz-Barba, an individual, also known as Alejandro Diaz Barba, Alex Diaz, Porfirio Alejandro Diaz, Alejandro B. Diaz, Porfirio A. Diaz and Porfirio Diaz Under FRCP 37(a)(2)(B); and (ii) Awarding Sanctions and Expenses Under FRCP 37(a)(4) with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>331</u> Notice of Lodgment of Order,, <u>330</u> Notice of Lodgment of Order,,) (Mojdehi, Ali) (Entered: 11/27/2007)
11/30/2007	● <u>338</u>	Notice of Motion and Motion to Preclude the testimony of Craig Kelley, Memorandum of Points and Authorities filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 12/03/2007)

11/30/2007	● <u>339</u>	Declaration of <i>Phyllis Grodzitsky</i> in Support of Motion to Preclude the Testimony of <i>Craig Kelley</i> (related documents <u>338</u> Notice of Motion and Motion,) filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 12/03/2007)
11/30/2007	● <u>340</u>	Declaration of <i>Stephen Morris</i> in Support of Motion to Preclude the testimony of <i>Craig Kelley</i> (related documents <u>338</u> Notice of Motion and Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) Additional attachment (s) added on 12/3/2007 (Duran, K.). (Entered: 12/03/2007)
11/30/2007	● <u>341</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>338</u> Notice of Motion and Motion,, <u>339</u> Declaration in Support,, <u>340</u> Declaration in Support,) (Duran, K.) (Entered: 12/03/2007)
12/03/2007	● <u>342</u>	Amended Notice of Motion and Motion filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. HEARING Scheduled for 1/17/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>338</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 12/04/2007)
12/03/2007	● <u>343</u>	Objection to Notice of Taking the Deposition of <i>Craig Kelley</i> (related documents <u>342</u> Notice of Motion and Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 12/04/2007)
12/03/2007	● <u>344</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>343</u> Objection,, <u>342</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 12/04/2007)
12/06/2007	● <u>345</u>	Notice of Motion and Motion to Dismiss Adversary Proceeding filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. HEARING Scheduled for 1/17/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Crosby, A.C.) (Entered: 12/07/2007)
12/06/2007	● <u>346</u>	Request for Judicial Notice of Documents Previously Filed with the Court In Support of Motion filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Exhibit 1 Pages 1-50# <u>2</u> Exhibit 51-100# <u>3</u> Exhibit 101-150# <u>4</u> Exhibit 151-200# <u>5</u> Exhibit 201-223) (related documents <u>345</u> Notice of Motion and Motion,) (Crosby, A.C.) (Entered: 12/07/2007)
12/06/2007	● <u>347</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (related documents <u>345</u> Notice of Motion and Motion,, <u>346</u> Request for Judicial Notice,) (Crosby, A.C.) (Entered: 12/07/2007)
12/11/2007	● <u>348</u>	Order Granting Notice of Hearing and Motion of Kismet Acquisition and Awarding Sanctions and Exepnses (Related Doc # <u>307</u>) signed on 12/11/2007. (Duran, K.) (Entered: 12/11/2007)
12/11/2007	● <u>349</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>348</u> Order re: Notice of Hearing and Motion) (Duran, K.) (Entered: 12/11/2007)

		12/11/2007)
12/11/2007	● 350	Notice of Entry of Judgment or Order (related documents 348 Order re: Notice of Hearing and Motion) (Duran, K.) (Entered: 12/11/2007)
12/14/2007	● 351	Correspondence Re: Correspondence, Letter to Judge DeCarl Adler (Duran, K.) Additional attachment(s) added on 1/2/2008 (Duran, K.). (Entered: 12/14/2007)
12/17/2007	● 352	Opposition by Plaintiff Kismet Acquisition LLC to Diaz Defendants' Motion to Preclude the Testimony of Party Craig Kelley and for Monetary Sanctions (related documents 338 Notice of Motion and Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/17/2007)
12/17/2007	● 353	Declaration of Janet D. Gertz in Support of Opposition by Plaintiff Kismet Acquisition LLC to Diaz Defendants' Motion to Preclude the Testimony of Party Craig Kelley and for Monetary Sanctions (related documents 352 Opposition,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6 # 7 Index 7 # 8 Exhibit 8 # 9 Exhibit 9) (Mojdehi, Ali) (Entered: 12/17/2007)
12/18/2007	● 354	Objection to Kismet Amended Notice of Taking the Continued Deposition of Craig Kelley filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # 1 Proof of Service) (Duran, K.) (Entered: 12/18/2007)
12/18/2007	● 355	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents 353 Declaration in Support,, 352 Opposition,) (Mojdehi, Ali) (Entered: 12/18/2007)
12/18/2007	● 356	Notice of Appeal. BK Appeal No. 1 Fee Amount \$ 255 filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. Appeal Designation Due By: 12/28/2007. Statement of Issues Due By: 12/28/2007. Appellee Designation Due By: 1/7/2008. Record Transmission due by 2/1/2008, (Herbold, K.) (Entered: 12/19/2007)
12/18/2007	● 358	Motion for Stay Pending Appeal. BK Appeal No. 1 filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Herbold, K.) (Entered: 12/19/2007)
12/18/2007	● 359	Certificate of Service (related documents 358 Motion for Stay Pending Appeal, 357 Election for Appeal to be Heard by District Court, 356 Notice of Appeal,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Herbold, K.) (Entered: 12/19/2007)
12/19/2007	● 357	Election for Appeal to be Heard by District Court. BK Appeal No: 1. (related documents 356 Notice of Appeal,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Herbold, K.) (Entered: 12/19/2007)
12/21/2007	● 363	Reply Declaration of Stephen B. Morris in Support of Motion to Preclude the Testimony of Craig Kelley and for Monetary Sanctions (related documents 345 Notice of Motion and Motion,, 353 Declaration in Support,, 352 Opposition,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Diaz, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # 1 Memorandum of Points and Authorities # 2 Certificate of Service) (Schmitt, T.) (Entered: 12/26/2007)
12/26/2007	● 360	Stipulation : Stipulated Dismissal of Complaint as to Defendants Robert Miller, an Individual, and Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee, With Prejudice and Proposed Order Thereon filed by Ali M.M. Mojdehi on behalf

		of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/26/2007)
12/26/2007	● <u>361</u>	Stipulation : <i>Joint Stipulation Regarding Response Time for Objection to Motion to Dismiss Adversary Proceeding Against Defendants Alejandro Diaz-Barba and Martha Margarita Barba De La Torre</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/26/2007)
12/26/2007	● <u>362</u>	Certificate of Service (related documents <u>361</u> Stipulation,, <u>360</u> Stipulation,) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/26/2007)
12/27/2007	● <u>364</u>	Notice of Referral of Appeal to the United States District Court with service of Notice of Appeal. BK Appeal No: 1 (Attachments: # <u>1</u> Transmittal Memorandum) (related documents <u>356</u> Notice of Appeal,) (Herbold, K.) Modified on 3/21/2008 (Herbold, K.). (Entered: 12/27/2007)
12/27/2007	● <u>365</u>	Request for Notification of Errors/Deficiencies(BNC) (related documents <u>359</u> Certificate of Service,, <u>356</u> Notice of Appeal,) (Herbold, K.) (Entered: 12/27/2007)
12/27/2007	● <u>371</u>	Court Certificate of Mailing (related documents <u>365</u> Request for Notification of Errors/Deficiencies) Service Date 12/29/2007. (Admin.) (Entered: 12/29/2007)
12/28/2007	● <u>366</u>	Order Regarding Dismissal of Complaint as to Defendants Robert Miller, Robert Miller DDS, Profit Sharing Plan and trust, Robert P. Miller, Trustee with Prejudice signed on 12/28/2007. (Schmitt, T.) Additional attachment(s) added on 1/9/2008 (Schmitt, T.). Additional attachment(s) added on 1/9/2008 (Schmitt, T.). (Entered: 12/28/2007)
12/28/2007	● <u>367</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>366</u> Order Dismissing Case) (Schmitt, T.) (Entered: 12/28/2007)
12/28/2007	● <u>368</u>	Order on Joint Stipulation Regarding Response Time for Objection to motion to Dismiss Adversary Proceeding Against Defendants Alejandro Diaz-Barba and Martha Margarita Barba De La Torre signed on 12/28/2007. (Schmitt, T.) (Entered: 12/28/2007)
12/28/2007	● <u>369</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>368</u> Order) (Schmitt, T.) (Entered: 12/28/2007)
12/28/2007	● <u>370</u>	Opposition by Kismet Acquisition, LLC to Motion to Dismiss Adversarial Proceeding Against Defendants Alejandro Diaz-Barba and Martha Margarita Barba De La Torre Under FRCP 12(c) (related documents <u>345</u> Notice of Motion and Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 12/28/2007)
12/28/2007	● <u>372</u>	Substitution of Attorney. Involvement of William L. Conti Terminated filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 12/31/2007)
12/31/2007	● <u>373</u>	Notice of Suspension of Deposition, Notice of Motion and Motion for Protective Order; Memo of Points and Authorities filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 12/31/2007)
12/31/2007	● <u>374</u>	Request for Judicial Notice filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz,

		Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Duran, K.) Additional attachment(s) added on 12/31/2007 (Duran, K.). (Entered: 12/31/2007)
12/31/2007	<u>375</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous), <u>374</u> Request for Judicial Notice,) (Duran, K.) (Entered: 12/31/2007)
12/31/2007	<u>376</u>	Emergency <i>EX PARTE</i> Application <i>FOR ORDER REQUIRING DEPOSITION OF CRAIG KELLEY TO GO FORWARD ON JANUARY 3, 2008 AS NOTICED</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/31/2007)
12/31/2007	<u>377</u>	Declaration <i>OF JANET D. GERTZ IN SUPPORT OF EMERGENCY EX PARTE APPLICATION FOR ORDER REQUIRING DEPOSITION OF CRAIG KELLEY TO GO FORWARD ON JANUARY 3, 2008 AS NOTICED</i> filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 12/31/2007)
01/02/2008	<u>378</u>	Certificate of Service (related documents <u>377</u> Declaration,, <u>376</u> Generic Application or Motion) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 01/02/2008)
01/07/2008	<u>379</u>	Motion by Plaintiff Kismet Acquisition, LLC Pursuant to Fed.R.Bankr.Proc 9018 to Strike the Evidence in Reply Declaration of Stephen B. Morris and Accompanying Memorandum in Support of Motion to Preclude the Testimony of Craig Kelley and for Monetary Sanctions filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>363</u> Reply,,) (Mojdehi, Ali) (Entered: 01/07/2008)
01/07/2008	<u>380</u>	Declaration of Janet D. Gertz in Support of Motion by Plaintiff Kismet Acquisition, LLC Pursuant to Fed.R.Bankr.Proc 9018 to Strike the Evidence in Reply Declaration of Stephen B. Morris and Accompanying Memorandum in Support of Motion to Preclude the Testimony of Craig Kelley and for Monetary Sanctions (related documents <u>379</u> Generic Application or Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit) (Mojdehi, Ali) (Entered: 01/07/2008)
01/07/2008	<u>381</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>380</u> Declaration in Support,, <u>379</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 01/07/2008)
01/07/2008	<u>382</u>	Memorandum of Points and Authorities in support of Motion to Dismiss (related documents <u>345</u> Notice of Motion and Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Proof of Service) (Duran, K.) (Entered: 01/07/2008)
01/08/2008	<u>383</u>	NOT APPROVED Order on Emergency Ex-Parte Application for Order requiring Desposition of Craig Kelley to go forward on Jan 3, 2008 as noticed (Related Doc # <u>376</u>) signed on 1/8/2008. (related documents <u>376</u> Generic Application or Motion) (Duran, K.) (Entered: 01/08/2008)
01/08/2008	<u>384</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>383</u> Generic Order re: Application,) (Duran, K.) (Entered: 01/08/2008)

01/14/2008	● <u>385</u>	HEARING Scheduled for 1/31/2008 at 02:30 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Duran, K.) (Entered: 01/14/2008)
01/15/2008	● <u>386</u>	Notice of Change in Date Fixed for Trial/Hearing HEARING Scheduled for 1/31/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous), [385] Hearing) (Fearce, K.) (Entered: 01/15/2008)
01/15/2008	● <u>387</u>	Notice of Change in Date Fixed for Trial/Hearing HEARING Scheduled for 1/31/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>280</u> Minute Order,, <u>338</u> Notice of Motion and Motion,, <u>345</u> Notice of Motion and Motion,, <u>275</u> Minute Order,, <u>342</u> Notice of Motion and Motion,, <u>248</u> Minute Order,) (Fearce, K.) (Entered: 01/15/2008)
01/15/2008	● <u>388</u>	Court Certificate of Mailing (related documents <u>386</u> Notice of Change in Date Fixed for Trial/Hearing,) Service Date 01/17/2008. (Admin.) (Entered: 01/17/2008)
01/15/2008	● <u>389</u>	Court Certificate of Mailing (related documents <u>387</u> Notice of Change in Date Fixed for Trial/Hearing,) Service Date 01/17/2008. (Admin.) (Entered: 01/17/2008)
01/17/2008	● <u>390</u>	<i>Opposition by Kismet to Diaz Motion FOR PROTECTIVE ORDER RE DEPOSITION OF CRAIG KELLEY</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Mojdehi, Ali) (Entered: 01/17/2008)
01/18/2008	● <u>391</u>	Memorandum of Points and Authorities in Opposition to Motion to Strike Evidence in Reply Declaration of Stephen Morris and Accompanying Memorandum in support of Motion to Preclude Testimony of Criag Kelley (related documents <u>338</u> Notice of Motion and Motion,, <u>379</u> Generic Application or Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 01/22/2008)
01/22/2008	● <u>392</u>	Substitution of Attorney. Involvement of William L. Conti Terminated filed by William L. Conti on behalf of Donna L. Icenhower, Jerry L. Icenhower. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 01/22/2008)
01/22/2008	● <u>393</u>	Substitution of Attorney. Involvement of William L. Conti Terminated filed by William L. Conti on behalf of Western Financial Assets, Inc., a Nevada corporation. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 01/22/2008)
01/22/2008	● <u>394</u>	Substitution of Attorney. Involvement of William L. Conti Terminated filed by William L. Conti on behalf of Buckeye International Funding, Inc., a Nevada corporation. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 01/22/2008)
01/25/2008	● <u>395</u>	Ex Parte Application for Order stating Imposition of Monetary Sanctions pending appeal by <i>Alejandro Diaz-Barba</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Declaration # <u>2</u> Certificate of Service) (related documents <u>358</u> Motion for Stay Pending Appeal) (Duran, K.) (Entered: 01/28/2008)
01/28/2008	● <u>396</u>	Notice of Change of Address filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 01/28/2008)
01/28/2008	● <u>397</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>396</u> Notice of Change of Address) (Mojdehi, Ali) (Entered: 01/28/2008)

01/28/2008	<u>398</u>	Reply <i>BY PLAINTIFF KISMET ACQUISITION, LLC IN SUPPORT OF ITS Motion PURSUANT TO FED.R.BANKR.PROC 9018 TO STRIKE THE EVIDENCE IN REPLY DECLARATION OF STEPHEN B. MORRIS AND ACCOMPANYING MEMORANDUM IN SUPPORT OF MOTION TO PRECLUDE THE TESTIMONY OF CRAIG KELLEY AND FOR MONETARY SANCTIONS</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>379</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 01/28/2008)
01/29/2008	<u>399</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>398</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 01/29/2008)
01/29/2008	<u>400</u>	Proof of Service <i>for Proposed Order granting Application to stay Imposition of Monetary Sanctions</i> filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 01/30/2008)
01/31/2008	<u>403</u>	Minute Order. Hearing DATE: 01/31/2008, MATTER: MOTION FOR PROTECTIVE ORDER FILED BY STEPHEN B. MORRIS ON BEHALF OF ALEJANDRO DIAZ BARBA, MARTHA MARGARITA BARBA DE LA TORRE, and MOTION TO DISMISS ADVERSARY PROCEEDING AGAINST DEFENDANTS ALEJANDRO DIAZ-BARBA & MARTHA MARGARITA BARBA DE LA TORRE and MOTION TO PRECLUDE THE TESTIMONY OF PARTY CRAIG KELLEY AND FOR MONETARY SANCTIONS FILED BY THE DIAZS and PRETRIAL STATUS CONFERENCE (fr 6/28/07). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (58416)). HEARING Scheduled for 04/10/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous), <u>129</u> Minute Order Pretrial SC, Pretrial, Trial, <u>345</u> Notice of Motion and Motion,, <u>342</u> Notice of Motion and Motion,) (Seale, J.) (Entered: 02/04/2008)
02/01/2008	<u>401</u>	<i>Opposition of Kismet Acquisition, LLC to Ex Parte Application for Order Staying Imposition of Monetary Sanctions Pending Appeal by Defendant Alejandro Diaz-Barba</i> (related documents <u>395</u> Generic Application or Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 02/01/2008)
02/01/2008	<u>402</u>	<i>Declaration of Janet D. Gertz in Support of Kismet Acquisition, LLC's Opposition to Ex Parte Application for Order Staying Imposition of Monetary Sanctions Pending Appeal by Defendant Alejandro Diaz-Barba</i> (related documents <u>401</u> Opposition,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 02/01/2008)
02/04/2008	<u>404</u>	Minute Order. DISPOSITION(s): See Minute Order. PRETRIAL HEARING Continued to 3/13/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse PRETRIAL scheduled for 4/10/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse TRIAL scheduled for 4/21/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/22/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/23/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/24/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse;;; (related documents <u>345</u> Notice of Motion and Motion,, <u>338</u> Notice of Motion and Motion,) (Duran, K.) (Entered: 02/04/2008)
02/05/2008	<u>405</u>	NOT APPROVED Order for Application to stay imposition of Monetary Sanctions pending Appeal (related documents <u>395</u> Generic Application or Motion,) signed on 2/5/2008. (Duran, K.) (Entered: 02/05/2008)
02/07/2008	<u>406</u>	Notice of Order Awarding Sanctions and Opportunity to change amount of Sanctions Awarded filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Declaration # <u>2</u> Certificate of Service) (related documents <u>395</u> Generic Application or Motion,) (Duran, K.) (Entered: 02/08/2008)

02/07/2008	● <u>407</u>	Memorandum of Points and Authorities Reply in support of Request for Stay (related documents <u>395</u> Generic Application or Motion,, <u>405</u> Order) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) Additional attachment(s) added on 2/8/2008 (Duran, K.). (Entered: 02/08/2008)
02/14/2008	● <u>408</u>	Proof of Service of <i>Order Denying Preclusion</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 02/14/2008)
02/14/2008	● <u>409</u>	Third-Party Complaint against Alejandro Diaz Barba, Buckeye International Funding, Inc., a Nevada corporation, Columbus Enterprises, LLC, a Nevada limited liability company, DOES 1 through 50, inclusive, Howell & Gardner Investors, Inc., Donna L. Icenhower, Jerry L. Icenhower, Johnstown Enterprises, LLC, a Nevada limited liability company, Craig Kelley, an individual, Newark Enterprises, LLC, a Nevada limited liability company, Robert P. Miller, D.D.S., Profit Sharing Plan and Trust, Robert P. Miller, Trustee, Western Financial Assets, Inc., a Nevada corporation . filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) Additional attachment(s) added on 2/14/2008 (Duran, K.). Additional attachment(s) added on 2/14/2008 (Duran, K.). (Entered: 02/14/2008)
02/14/2008	● <u>410</u>	Declaration of <i>Stephen Morris</i> in Support <i>Motion for leave to file Third party complaint</i> (related documents <u>409</u> Third-Party Complaint,,) filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 02/14/2008)
02/14/2008	● <u>411</u>	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>409</u> Third-Party Complaint,, , <u>410</u> Declaration in Support,) (Duran, K.) (Entered: 02/14/2008)
02/15/2008	● <u>412</u>	Notice of Motion and Motion for <i>Leave to file Third Party Complaint</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. HEARING Scheduled for 3/13/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>409</u> Third-Party Complaint,,) (Duran, K.) Modified on 2/19/2008 (Fearce, K.)COURT NOTE: An Amended Notice to be fld correcting time of hrg to 2:00p.m. (Entered: 02/19/2008)
02/15/2008	● <u>413</u>	Notice of Motion and Motion to <i>Dismiss Third Party Complaint</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. HEARING Scheduled for 3/20/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (Attachments: # <u>1</u> Declaration # <u>2</u> Certificate of Service) (Duran, K.) (Entered: 02/19/2008)
02/20/2008	● <u>414</u>	Order Regulating Discovery and Pretrial Proceedings and Fixing Date for Trial. 3/25/08 for Meet and Confer; Pre-Trial Order due by 4/3/2008, 4/14/08 counsel must take action, PRETRIAL Scheduled for 4/10/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse TRIAL scheduled for 4/21/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/22/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/23/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; TRIAL scheduled for 4/24/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse; signed on 2/20/2008. (Duran, K.) (Entered: 02/20/2008)

02/21/2008	415	Transcript hearing held on June 28, 2007. You are noticed that a transcript has been filed with the court. Pursuant to the Judicial Conference Policy on Privacy, access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a <i>Notice of Intent to Request Redaction</i> of any social security numbers, financial account data, names of minor-age children, dates of birth, and home addresses. If redaction is requested, the filing party has 21 calendar days from the date the <i>notice of intent to request redaction</i> was filed to file a list of items to be redacted indicating the location of the identifiers within the transcript with the court and to provide the list to the court reporter. The transcript will be made electronically available to the general public if no request for redaction is timely filed with the court or after requested redaction are made by the court reporter. (related documents <u>280</u> Minute Order,) (Duran, K.) (Entered: 02/21/2008)
02/21/2008	416	<i>Amended Notice of Motion for Leave to file Third Party complaint</i> filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. Notice Served On: 2/21/2008. Unless an Order Shortening Time has been entered, Opposition due by: 3/10/2008. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>413</u> Notice of Motion and Motion,,) (Duran, K.) (Entered: 02/22/2008)
02/21/2008	418	Court Certificate of Mailing (related documents <u>415</u> Transcript, , ,) Service Date 02/23/2008. (Admin.) (Entered: 02/23/2008)
02/22/2008	417	Transcript hearing held on Jan 31, 2008. You are noticed that a transcript has been filed with the court. Pursuant to the Judicial Conference Policy on Privacy, access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a <i>Notice of Intent to Request Redaction</i> of any social security numbers, financial account data, names of minor-age children, dates of birth, and home addresses. If redaction is requested, the filing party has 21 calendar days from the date the <i>notice of intent to request redaction</i> was filed to file a list of items to be redacted indicating the location of the identifiers within the transcript with the court and to provide the list to the court reporter. The transcript will be made electronically available to the general public if no request for redaction is timely filed with the court or after requested redaction are made by the court reporter. (related documents <u>403</u> Minute Order, , ,) (Duran, K.) (Entered: 02/22/2008)
02/22/2008	419	Court Certificate of Mailing (related documents <u>417</u> Transcript, , ,) Service Date 02/24/2008. (Admin.) (Entered: 02/24/2008)
02/25/2008	420	Statement of Non-Opposition by Kismet to Diaz Third Party Plaintiffs' Motion to Dismiss Third-Party Complaint Against Kismet Acquisition II, LLC; Axolotl S.A.; Wolfgang Hahn; and Dieter Hahn filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A - Declaration of Janet D. Gertz in Support of Statement of Non-Opposition by Kismet to Diaz Third Party Plaintiffs' Motion to Dismiss Third-Party Complaint Against Kismet Acquisition II, LLC; Axolotl S.A.; Wolfgang Hahn; and Dieter Hahn# <u>2</u> Certificate of Service) (related documents <u>413</u> Notice of Motion and Motion,,) (Mojdehi, Ali) (Entered: 02/25/2008)
02/25/2008	421	<i>Plaintiff's Notice of Lodgment of Order Denying Defendants' Motion to Dismiss</i> with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Baker & McKenzie. (related documents <u>345</u> Notice of Motion and Motion,) (Mojdehi, Ali) (Entered: 02/25/2008)
02/25/2008	422	<i>Plaintiff's Notice of Lodgment of Order Denying Defendants' Motion for Protective Order re Deposition of Craig Kelley</i> with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Baker & McKenzie. (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Mojdehi, Ali) Modified on 2/26/2008 (Fearce, K.)COURT NOTE: Order returned defective, no proof of service provided. Amended Ntc of Lodgement to be filed. (Entered: 02/25/2008)
02/26/2008	423	<i>Amended Notice of Lodgment of Order Denying Defendants Motion for Protective Order re Deposition of Craig Kelley</i> with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related

		documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Mojdehi, Ali) (Entered: 02/26/2008)
02/26/2008	● <u>424</u>	Amended Notice of Lodgment of Order <i>Denying Defendants Motion to Dismiss</i> with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>345</u> Notice of Motion and Motion,) (Mojdehi, Ali) (Entered: 02/26/2008)
02/29/2008	● <u>425</u>	Court Certificate of Mailing (related documents <u>417</u> Transcript, , ,) Service Date 03/02/2008. (Admin.) (Entered: 03/02/2008)
02/29/2008	● <u>426</u>	Notice of Lodgment of Order <i>Motion to Precluded the Testimony of Craig Kelley and for Monetary Sanctions</i> with Service filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Duran, K.) (Entered: 03/03/2008)
03/03/2008	● <u>427</u>	<i>Opposition of Plaintiff Kismet Acquisition, LLC to Motion of Diaz Defendants for Leave to File Third Party Complaint</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration Declaration of Karen R. Frostrom in Support of Opposition of Kismet to Diaz Defendants' Motion for Leave to File Third Party Complaint) (related documents <u>413</u> Notice of Motion and Motion,,) (Mojdehi, Ali) (Entered: 03/03/2008)
03/04/2008	● <u>428</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>427</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 03/04/2008)
03/04/2008	● <u>429</u>	<i>Declaration of Janet D. Gertz in Support of Opposition of Plaintiff Kismet Acquisition, LLC to Motion of Defendants Alejandro Diaz-Barba and Martha Margarita Barba De La Torre for Leave to File Third Party Complaint</i> (related documents <u>427</u> Generic Application or Motion,) filed by Janet D. Gertz of Baker & McKenzie LLP on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Certificate of Service) (Gertz, Janet) (Entered: 03/04/2008)
03/06/2008	● <u>430</u>	Order on Motion for Protective Order re Deposition of Craig Kelley (related documents <u>423</u> Notice of Lodgment of Order,) signed on 3/6/2008. (Duran, K.) (Entered: 03/06/2008)
03/06/2008	● <u>431</u>	Notice of Entry of Judgment or Order (related documents <u>430</u> Order) (Duran, K.) (Entered: 03/06/2008)
03/06/2008	● <u>432</u>	Order on Motion to Dismiss Adversary DENIED (related documents <u>424</u> Notice of Lodgment of Order,) signed on 3/6/2008. (Duran, K.) (Entered: 03/06/2008)
03/06/2008	● <u>433</u>	Notice of Entry of Judgment or Order (related documents <u>432</u> Order) (Duran, K.) (Entered: 03/06/2008)
03/10/2008	● <u>434</u>	Memorandum of Points and Authorities in support of Motion for Leave to File Third Party Complaint (related documents <u>416</u> Notice of Motion,,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 03/11/2008)
03/12/2008	● <u>435</u>	HEARING Scheduled for 3/13/2008 at 02:00 PM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>416</u> Notice of Motion,) (Duran, K.) (Entered: 03/12/2008)
03/12/2008	● <u>436</u>	Emergency <i>Ex Parte</i> Application for Order Requiring Deposition of Diane Oney to go

		forward on March 18, 2008 as noticed filed by Stephen B. Morris on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Declaration Angelina Rudd# <u>2</u> Certificate of Service) (Duran, K.) (Entered: 03/12/2008)
03/13/2008	● <u>437</u>	Minute Order. Hearing DATE: 03/13/2008, MATTER: DEFENDANTS MOTION TO DISMISS THIRD PARTY COMPLAINT FILED BY ALEJANDRO DIAZ-BARBA AND MARTHA BARBA DEDIAZ and DEFENDANTS'S MOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT FILED BY ALEJANDRO DIAZ-BARBA AND MARTHA BARBA DEDIAZ. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (60509)). (related documents <u>413</u> Notice of Motion and Motion, , <u>412</u> Notice of Motion and Motion, ,) (Fearce, K.) (Entered: 03/14/2008)
03/14/2008	● <u>438</u>	Opposition to Emergency Ex Parte Application for Order Requiring Deposition of Diane Oney To Go Forward on March 18, 2008 as Noticed (related documents <u>436</u> Generic Application or Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 03/14/2008)
03/14/2008	● <u>439</u>	Declaration of Ali M.M. Mojdehi in Support of Opposition to Emergency Ex Parte Application for Order Requiring Deposition of Diane Oney To Go Forward on March 18, 2008 as Noticed (related documents <u>438</u> Opposition,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B) (Mojdehi, Ali) (Entered: 03/14/2008)
03/17/2008	● <u>440</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>439</u> Declaration in Support, <u>438</u> Opposition,) (Mojdehi, Ali) (Entered: 03/17/2008)
03/17/2008	● <u>441</u>	Order NOT APPROVED Emergency Application Requiring Deposition of Diane Olney to go forward on March 18 as noticed (Related Doc # <u>436</u>) signed on 3/17/2008. (related documents <u>436</u> Generic Application or Motion,) (Duran, K.) (Entered: 03/18/2008)
03/18/2008	● <u>442</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>441</u> Generic Order re: Application) (Duran, K.) (Entered: 03/18/2008)
03/19/2008	● <u>443</u>	NOT APPROVED Order on Denying Testimony Preclusion and Awarding Monetary Sanctions (related documents <u>417</u> Transcript, , , , <u>403</u> Minute Order, , ,) signed on 3/19/2008. (Schmitt, T.) (Entered: 03/19/2008)
03/19/2008	● <u>444</u>	Order Denying Testimony Preclusion and Awarding Monetary Sanctions (related documents <u>417</u> Transcript <u>443</u> Order) signed on 3/19/2008. (Schmitt, T.) (Entered: 03/19/2008)
03/19/2008	● <u>445</u>	Declaration of Ronald White in Opposition to Award of Monetary Sanctions (related documents <u>444</u> Order, <u>342</u> Notice of Motion and Motion,) filed by Ronald White on behalf of Craig Kelley, an individual. (Duran, K.) (Entered: 03/20/2008)
03/20/2008		Miscellaneous Tickler: Who is Omar Bakari? Court needs address and bar # of atty. Called Atty. Atty Ronald White to file a formal Withdraw of Counsel to be Pro-Se. Adv Proc Misc. Tickler Due Date: 4/1/2008, (related documents <u>445</u> Declaration in Opposition) (Duran, K.) (Entered: 03/20/2008)
03/26/2008	● <u>446</u>	Notice of Lodgment of Order Denying Diaz Defendants Motion for Leave to File Third Party Complaint with Service filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>437</u> Minute Order,) (Mojdehi, Ali) (Entered: 03/26/2008)

04/02/2008	447	Request to Enter Default with Declaration of Mailing, Memorandum of Costs and if applicable Declaration of Non- Military Status. filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration DECLARATION OF JANET D. GERTZ IN SUPPORT OF REQUEST FOR ENTRY OF DEFAULT AGAINST HOWELL & GARDNER INVESTORS, INC., A NEVADA CORPORATION# <u>2</u> Exhibit Exhibits A through G to Declaration of Janet D. Gertz in Support of Request for Entry of Default of Howell & Gardner Investors, Inc., a Nevada Corporation) (Mojdehi, Ali) (Entered: 04/02/2008)
04/03/2008	448	Proposed <i>Pre-Trial Order</i> Trial Documents filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit Exhibit A# <u>2</u> Exhibit Exhibit B) (related documents <u>414</u> Order Regulating Discovery and Pretrial Proceedings and Fixing Date for Trial,,) (Mojdehi, Ali) (Entered: 04/03/2008)
04/03/2008	449	<i>Declaration of Janet D. Gertz in Support of Proposed Pre-Trial Order Trial Documents filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC</i> Trial Documents filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>448</u> Trial Documents,) (Mojdehi, Ali) (Entered: 04/03/2008)
04/03/2008	450	<i>Pre-Trial Order</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Diaz. (Duran, K.) (Entered: 04/04/2008)
04/07/2008		Miscellaneous Tickler: Atty to post Notice in Publication because Atty cannot find Defendant, Never Served Summons. RED is in-valid. Adv Proc Misc. Tickler Due Date: 5/7/2008, (related documents <u>447</u> Request to Enter Default,) (Duran, K.) Talked to Atty. They will not be posting a Notice after all according to Nevada Law. (4/16/08) (Entered: 04/07/2008)
04/07/2008	451	<i>Kismet Acquisition, LLC's Ex Parte Application for One-Day Continuance of Dates Set For Trial</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/07/2008)
04/07/2008	452	<i>Declaration of Ali M.M. Mojdehi in Support of Kismet Acquisition, LLC's Ex Parte Application for One-Day Continuance of Dates Set For Trial</i> (related documents <u>451</u> Generic Application or Motion) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/07/2008)
04/07/2008	453	<i>Trial Documents Plaintiff Kismet Acquisition, LLC's Expert Witness Disclosure Statement (Fed R Civ P 26(a)(2))</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>448</u> Trial Documents,, <u>449</u> Trial Documents,) (Mojdehi, Ali) (Entered: 04/07/2008)
04/08/2008	454	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>453</u> Trial Documents,, <u>452</u> Declaration in Support,, <u>451</u> Generic Application or Motion) (Mojdehi, Ali) (Entered: 04/08/2008)
04/08/2008	455	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>447</u> Request to Enter Default,,) (Mojdehi, Ali) (Entered: 04/08/2008)
04/09/2008	456	<i>Trial Documents Alejandro Diaz-Barba and Martha Margarita Barba De La Torre Expert Witness Disclosure Statement</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (related documents <u>448</u> Trial Documents,, <u>449</u> Trial Documents,) (Duran, K.) (Entered: 04/09/2008)
04/10/2008	457	<i>Joint Pre-Trial Order - Trial Documents</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>448</u> Trial Documents,, <u>450</u> Generic Document) (Mojdehi, Ali) (Entered: 04/10/2008)

04/10/2008	● <u>458</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>457</u> Trial Documents) (Mojdehi, Ali) (Entered: 04/10/2008)
04/10/2008	● <u>459</u>	Order on Diaz Defendants' Motion for Leave to file Third Party Complaint, (Related to <u>446</u> Notice of Lodgment) signed on 4/10/2008. (Duran, K.) (Entered: 04/10/2008)
04/10/2008	● <u>460</u>	Notice of Entry of Judgment or Order (related documents <u>459</u> Order) (Duran, K.) (Entered: 04/10/2008)
04/10/2008	● <u>461</u>	Minute Order. Hearing DATE: 04/10/2008, MATTER: PRE-TRIAL HEARING. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (59639)). (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Wilkinson, M.) (Entered: 04/10/2008)
04/15/2008	● <u>462</u>	Order NOT APPROVED Kismet Acquisition Application for One-Day Continuance of dates set for Trial (Related Doc # <u>451</u>) signed on 4/15/2008. (related documents <u>451</u> Generic Application or Motion) (Duran, K.) (Entered: 04/15/2008)
04/15/2008	● <u>463</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>462</u> Generic Order re: Application) (Duran, K.) (Entered: 04/15/2008)
04/16/2008	● <u>464</u>	Notice of Entry of Judgment or Order (Related to <u>447</u> Request to Enter Default) (Duran, K.) (Entered: 04/16/2008)
04/16/2008	● <u>465</u>	Notice of Entry of Default (related documents <u>447</u> Request to Enter Default,) (Duran, K.) (Entered: 04/16/2008)
04/16/2008	● <u>466</u>	<i>Notice of Intent to Offer Business Records Authenticated by Certification at Trial</i> - Trial Documents filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit # <u>2</u> Certificate of Service) (Mojdehi, Ali) (Entered: 04/16/2008)
04/16/2008	● <u>467</u>	Transcript: You are Hereby Notified that a transcript of the hearing held Jan 18, 2007 was filed with the Court on 4/16/2008. Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits). If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public. (related documents <u>214</u> Minute Order,) (Duran, K.) (Entered: 04/16/2008)
04/16/2008	● <u>468</u>	Transcript: You are Hereby Notified that a transcript of the hearing held Jan 18, 2007 was filed with the Court on 4/16/2008. Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits). If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to

		Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public. (related documents <u>214</u> Minute Order, ,) (Duran, K.) Modified on 4/16/2008 (Duran, K.).DUPLICATE (Entered: 04/16/2008)
04/16/2008	<u>469</u>	Trial Documents <i>Trial Brief</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 04/16/2008)
04/16/2008	<u>470</u>	Trial Documents <i>MEMORANDUM OF CONTENTIONS OF FACT AND LAW PURSUANT TO LOCAL RULE 16.1(f)</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit BUSTAMANTE CV, EXHIBIT A) (Mojdehi, Ali) (Entered: 04/16/2008)
04/16/2008	<u>478</u>	Court Certificate of Mailing - BNC (related documents <u>465</u> Notice of Entry of Default) Service Date 04/18/2008. (Admin.) (Entered: 04/18/2008)
04/16/2008	<u>479</u>	Court Certificate of Mailing - BNC (related documents <u>467</u> Transcript, , , ,) Service Date 04/18/2008. (Admin.) (Entered: 04/18/2008)
04/16/2008	<u>480</u>	Court Certificate of Mailing - BNC (related documents <u>468</u> Transcript, , , ,) Service Date 04/18/2008. (Admin.) (Entered: 04/18/2008)
04/17/2008	<u>471</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>470</u> Trial Documents) (Mojdehi, Ali) (Entered: 04/17/2008)
04/17/2008	<u>472</u>	Declaration of Janet D. Gertz in Support of Plaintiff Kismet Acquisition LLC's Memorandum of Contentions of Fact and Law Pursuant to Local Rule 16.1(F) (related documents <u>470</u> Trial Documents) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Mojdehi, Ali) (Entered: 04/17/2008)
04/17/2008	<u>473</u>	Trial Documents <i>Motion in Limine</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Declaration Declaration in Support by Janet Gertz and Exhibits 1-2 Thereto) (related documents <u>470</u> Trial Documents) (Mojdehi, Ali) (Entered: 04/17/2008)
04/18/2008	<u>474</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>473</u> Trial Documents,) (Mojdehi, Ali) (Entered: 04/18/2008)
04/18/2008	<u>475</u>	Pre-Trial Order signed on 4/18/2008. (Duran, K.) (Entered: 04/18/2008)
04/18/2008	<u>476</u>	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>475</u> Order) (Duran, K.) (Entered: 04/18/2008)
04/18/2008	<u>477</u>	<i>Expert's Rebuttal Report Prepared by Eduardo A. Bustamante</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/18/2008)
04/20/2008	<u>481</u>	Notice of Dismissal <i>Without Prejudice as to Defendants Newark Enterprises and Columbus Enterprises</i> filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/20/2008)
04/20/2008	<u>482</u>	<i>Motion Request for Order Approving Voluntary Dismissal Without Prejudice</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/20/2008)

04/20/2008	483	<i>Declaration of Janet Gertz in Support of Motion Request for Order Approving Voluntary Dismissals Without Prejudice</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Attachments: # 1 Exhibit Exhibit 1: Analysis of Parties) (related documents 482 Generic Application or Motion) (Mojdehi, Ali) (Entered: 04/20/2008)
04/21/2008	484	<i>List of Exhibits - Trial Documents</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 04/21/2008)
04/21/2008	485	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents 484 Trial Documents) (Mojdehi, Ali) (Entered: 04/21/2008)
04/21/2008	486	Order Approving Voluntarily Dismissal without Prejudice (Related Doc # 482) signed on 4/21/2008. (related documents 482 Generic Application or Motion) (Duran, K.) (Entered: 04/21/2008)
04/21/2008	487	Certificate of Mailing re: E-ORDER: I hereby certify that a copy of the within Order was mailed this date to the Debtor(s) name above, the attorney of record, if any, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents 486 Generic Order re: Application) (Duran, K.) (Entered: 04/21/2008)
04/21/2008	488	Minute Order. Hearing DATE: 04/21/2008, MATTER: TRIAL SCHEDULED ALL DAY and KISMET ACQUISITION, LLC'S MOTION IN LIMINE. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (59641)). HEARING Scheduled for 04/22/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents 373 Notice (miscellaneous), Notice (miscellaneous), 473 Trial Documents,) (Fearce, K.) (Entered: 04/22/2008)
04/22/2008	489	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents 482 Generic Application or Motion, 481 Notice of Dismissal, 483 Generic Application or Motion,) (Mojdehi, Ali) (Entered: 04/22/2008)
04/22/2008	490	Minute Order. Hearing DATE: 04/22/2008, MATTER: TRIAL SCHEDULED ALL DAY (Fr 4/21). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (64219)). HEARING Scheduled for 04/23/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents 373 Notice (miscellaneous), Notice (miscellaneous)) (Fearce, K.) (Entered: 04/22/2008)
04/23/2008	491	Transcript: You are Hereby Notified that a transcript of the hearing held April 22, 2008 was filed with the Court on 4/23/2008. Access to this transcript is restricted for five business days from the date of filing. All parties have five business days to file a Notice of Intent to Request Redaction of certain identifying information as provided in the Judicial Conference's Privacy Policy. The four identifying items are: Social Security numbers (should be redacted to show only the last four digits); birth dates (should contain only the year of birth); individuals known to be minors (should be referred to with initials); and financial account numbers (should be redacted to the last four digits). If a Notice of Intent to Request Redaction is filed, the party then has 21 calendar days to file with the court and the court reporter, a Notice of Redaction with List of Location Identifiers. Once the transcript has been redacted and refiled with the court by the court reporter, or, when a Notice of Intent to Request Redaction is not filed by a party within 5 business days, the transcript becomes electronically available to the public. (related documents 490 Minute Order,) (Duran, K.) (Entered: 04/23/2008)
04/23/2008	492	Minute Order. Hearing DATE: 04/23/2008, MATTER: TRIAL SCHEDULED ALL DAY (Fr 4/22). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (64253)). HEARING Scheduled for 04/24/2008 at 10:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents 373 Notice (miscellaneous), Notice (miscellaneous)) (Fearce, K.) (Entered: 04/23/2008)
04/23/2008	495	Court Certificate of Mailing - BNC (related documents 491 Transcript, , ,) Service Date

		04/25/2008. (Admin.) (Entered: 04/25/2008)
04/24/2008	<u>493</u>	Minute Order. Hearing DATE: 04/24/2008, MATTER: TRIAL SCHEDULED ALL DAY (Fr 4/23). DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (64401)). HEARING Scheduled for 04/25/2008 at 09:00 AM at Courtroom 2, Room 118, Weinberger Courthouse (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Fearce, K.) (Entered: 04/24/2008)
04/25/2008	<u>494</u>	Minute Order. Hearing DATE: 04/25/2008, MATTER: TRIAL SCHEDULED ALL DAY (Fr 4/24) DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (64491)). (related documents <u>373</u> Notice (miscellaneous), Notice (miscellaneous)) (Wilkinson, M.) Modified on 4/25/2008 (Wilkinson, M.). (Entered: 04/25/2008)
04/25/2008	<u>496</u>	Trial Documents <i>Supplemental Trial Brief re Constructive Notice</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 04/28/2008)
04/30/2008		Terminate Pending Deadlines (Duran, K.) (Entered: 04/30/2008)
05/02/2008	<u>497</u>	<i>Contentions of Law and Fact</i> Finding of Fact & Conclusions of Law filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 05/02/2008)
05/08/2008	<u>498</u>	Response to <i>Diaz Defendants' Supplemental Trial Brief Re Constructive Notice</i> (related documents <u>496</u> Trial Documents,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 05/08/2008)
05/09/2008	<u>499</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>498</u> Response) (Mojdehi, Ali) (Entered: 05/09/2008)
05/09/2008	<u>500</u>	Motion <i>MOTION TO STRIKE DIAZ DEFENDANTS' LATE FILED CONTENTIONS OF LAW AND FACT; EVIDENTIARY OBJECTIONS RELATING TO SAME</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>497</u> Finding of Fact & Conclusions of Law,) (Mojdehi, Ali) (Entered: 05/09/2008)
05/12/2008	<u>501</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>500</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 05/12/2008)
05/14/2008	<u>502</u>	Opposition to <i>Motion to Strike Defendants' Contentions of Law and Fact</i> (related documents <u>497</u> Finding of Fact & Conclusions of Law,, <u>500</u> Generic Application or Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 05/14/2008)
06/02/2008	<u>503</u>	Consolidated Finding of Fact & Conclusions of Law signed on 6/2/2008. (Duran, K.) (Entered: 06/02/2008)
06/02/2008	<u>504</u>	Consolidated Judgment signed on 6/2/2008. (Duran, K.) (Entered: 06/02/2008)
06/12/2008	<u>505</u>	<i>Defendant's Motion to Alter or Amend Judgment and for Further Findings</i> filed by Stephen B. Morris on behalf of Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents <u>504</u> Judgment, <u>503</u>

		Finding of Fact & Conclusions of Law) (Duran, K.) (Entered: 06/12/2008)
06/12/2008	● 506	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents 505 Generic Application or Motion,) (Duran, K.) (Entered: 06/12/2008)
06/12/2008	● 507	Emergency <i>Ex Parte</i> Application by Plaintiff Kismet Acquisition LLC for Order Clarifying Consolidated Judgment Pursuant to Fed. R. Bankr. Proc. 7052(b) filed by Christine E. Baur on behalf of Kismet Acquisition, LLC. (related documents 504 Judgment) (Baur, Christine) (Entered: 06/12/2008)
06/12/2008	● 508	<i>Declaration of Janet D. Gertz in Support of Emergency Ex Parte Application by Plaintiff Kismet Acquisition LLC for Order Clarifying Consolidated Judgment Pursuant to Fed. R. Bankr. Proc. 7052(b)</i> filed by Christine E. Baur on behalf of Kismet Acquisition, LLC. (related documents 507 Generic Application or Motion,) (Baur, Christine) (Entered: 06/12/2008)
06/13/2008	● 509	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents 508 Generic Application or Motion,, 507 Generic Application or Motion,) (Mojdehi, Ali) (Entered: 06/13/2008)
06/13/2008	● 510	Notice of Motion and Motion to Alter or Amend Judgment and for Further Findings filed by Stephen B. Morris, Alejandro Diaz Barba on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. HEARING Scheduled for 7/24/2008 at 10:30 AM at Courtroom 2, Room 118, Weinberger Courthouse (Attachments: # 1 Motion to Alter Judgment# 2 Proof of Service) (Duran, K.) (Entered: 06/16/2008)
06/16/2008	● 511	<i>Defendants Response to Plaintiff Emergency Ex Parte Application for Order Clarifying Consolidated Judgment</i> (related documents 507 Generic Application or Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (Duran, K.) (Entered: 06/16/2008)
06/16/2008	● 512	Motion for Ex Parte Relief <i>Request for Stay of Enforcement of Judgment Pending Determination of Motion to Alter or Amend Judgment and for further findings</i> filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz (Attachments: # 1 Declaration) (Duran, K.) (Entered: 06/16/2008)
06/16/2008	● 513	Proof of Service filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Margarita Barba De La Torre, an individual, also know as Martha Barba De Diaz, Martha Barba DeDiaz, Martha Barba Diaz, Martha M. Diaz, Martha Margarita Diaz, Martha B. Diaz; Martha B. Diaz. (related documents 512 Motion for Ex Parte Relief,, 511 Response,) (Duran, K.) (Entered: 06/16/2008)
06/16/2008	● 514	Order Granting Kismet Application for Order Clarifying Consolidated Judgment(Related Doc # 507), Granting Application (Related Doc # 508) signed on 6/16/2008. (related documents 508 Generic Application or Motion, 507 Generic Application or Motion,) (Duran, K.) (Entered: 06/16/2008)
06/16/2008	● 515	Certificate of Mailing on ORDER: I hereby certify that a copy of the Order was mailed this date to the Debtor(s), the attorney for Debtor(s), if any, movant, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents 514 Generic Order re: Application,) (Duran, K.) (Entered: 06/16/2008)

06/16/2008	● <u>516</u>	<i>Bill of Costs (Consolidated)</i> Motion filed by Janet D. Gertz on behalf of Kismet Acquisition, LLC. (related documents <u>504</u> Judgment) (Gertz, Janet) (Entered: 06/16/2008)
06/16/2008	● <u>517</u>	<i>Declaration of Janet D. Gertz in Support Plaintiff Kismet Acquisition LLC's Bill of Costs</i> (related documents <u>516</u> Generic Application or Motion) filed by Janet D. Gertz of Baker & McKenzie LLP on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Certificate of Service) (Gertz, Janet) (Entered: 06/16/2008)
06/18/2008	● <u>518</u>	<i>Opposition by Plaintiff Kismet Acquisition, LLC to Diaz Defendants' Emergency Ex Parte Application for Stay of Enforcement of Judgment Pending Determination of Their Motion to Alter or Amend Judgment and for Further Findings [FRCP Rule 59(e)]</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>512</u> Motion for Ex Parte Relief,) (Mojdehi, Ali) (Entered: 06/18/2008)
06/18/2008	● <u>519</u>	<i>Declaration of Ali M.M. Mojdehi in Support of Opposition by Plaintiff, Kismet Acquisition, LLC to the Diaz Defendants' Emergency Ex Parte Application for Stay of Enforcement of Judgment Pending Determination of Their Motion to Alter or Amend Judgment and for Further Findings [FRCP Rule 59(e)]</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>518</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 06/18/2008)
06/18/2008	● <u>520</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>518</u> Generic Application or Motion,, <u>519</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 06/18/2008)
06/19/2008	● <u>521</u>	Order Granting Defendants Emergency Ex Parte Application (Related Doc # <u>512</u>) signed on 6/19/2008. (Duran, K.) (Entered: 06/20/2008)
06/20/2008	● <u>522</u>	Certificate of Mailing on ORDER: I hereby certify that a copy of the Order was mailed this date to the Debtor(s), the attorney for Debtor(s), if any, movant, and the trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>521</u> Order re: Motion for Ex Parte Relief) (Duran, K.) (Entered: 06/20/2008)
06/26/2008	● <u>523</u>	<i>Opposition to Diaz Motion to Alter or Amend Judgment and for further findings</i> (related documents <u>512</u> Motion for Ex Parte Relief,) filed by Donna L. Icenhower, Jerry L. Icenhower Donna L. Icenhower, Jerry L. Icenhower. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 06/26/2008)
06/30/2008	● <u>524</u>	<i>OPPOSITION OF PLAINTIFF, KISMET ACQUISITION, LLC TO Motion TO ALTER OR AMEND JUDGMENT AND FOR FURTHER FINDINGS FILED BY ALEJANDRO DIAZ BARBA AND MARTHA MARGARITA BARBA DE LA TORRE</i> filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC (related documents <u>510</u> Notice of Motion and Motion,,, <u>505</u> Generic Application or Motion,) (Mojdehi, Ali) (Entered: 06/30/2008)
07/01/2008	● <u>525</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>524</u> Generic Motion,) (Mojdehi, Ali) (Entered: 07/01/2008)
07/07/2008	● <u>526</u>	Substitution of Attorney. D. Anthony Gaston for Martha Diaz Involvement of Stephen B. Morris Terminated filed by Stephen B. Morris, D. Anthony Gaston on behalf of Martha Diaz. (Duran, K.) (Entered: 07/08/2008)
07/07/2008	● <u>527</u>	<i>Defendant's Reply Brief in Support of Motion to Alter or Amend Judgment</i> (related documents <u>505</u> Generic Application or Motion,) filed by Stephen B. Morris on behalf of Alejandro Diaz Barba, Martha Diaz. (Attachments: # <u>1</u> Certificate of Service) (Duran, K.) (Entered: 07/08/2008)
07/24/2008	● <u>528</u>	Association of Counsel filed by Geraldine A. Valdez of Procopio, Cory, Hargreaves &

		Savitch LLP on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Proof of Service) (Valdez, Geraldine) (Entered: 07/24/2008)
07/24/2008	● <u>529</u>	Minute Order. Hearing DATE: 07/24/2008, MATTER: MOTION TO ALTER OR AMEND JUDGMENT AND FOR FURTHER FINDINGS FILED BY STEPHEN B. MORRIS, ON BEHALF OF ALEJANDRO DIAZ BARBA, MARTHA MARGARITA BARBA DE LA TORRE. DISPOSITION: See Attached PDF document for details. (vCal Hearing ID (67707)). (related documents <u>510</u> Notice of Motion and Motion,) (Fearce, K.) (Entered: 07/24/2008)
07/29/2008	● <u>530</u>	Order on Motion to Alter or Amend Consolidated Judgment (Related Doc # <u>505</u>) signed on 7/29/2008. (related documents <u>505</u> Generic Application or Motion,) (Duran, K.) (Entered: 07/30/2008)
07/29/2008	● <u>531</u>	Certificate of Mailing on ORDER: I hereby certify that a copy of the Order was mailed this date to the Debtor(s), the Attorney for Debtor(s), if any, Movant, and the Trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>530</u> Generic Order re: Application) (Duran, K.) (Entered: 07/30/2008)
07/31/2008	● <u>532</u>	<i>Emergency Motion Defendants Martha Margarita Barba De La Torre and Alejandro Diaz-Barba for Stay of Judgment Pending Appeal</i> filed by Geraldine A. Valdez on behalf of Alejandro Diaz Barba. (Attachments: # <u>1</u> Declaration of Farzeen Essa in Support of Motion# <u>2</u> Memorandum of Points and Authorities # <u>3</u> Proof of Service) (Valdez, Geraldine) (Entered: 07/31/2008)
08/06/2008	● <u>533</u>	Notice of Appeal. BK Appeal No. 2. Fee Amount \$ 255. filed by Geraldine A. Valdez on behalf of Alejandro Diaz Barba. Appeal Designation Due By: 8/18/2008. Statement of Issues due by 8/18/2008. Appellee Designation Due By: 8/26/2008. Record Transmission due by 9/22/2008, (Attachments: # <u>1</u> Exhibit A; (2) Exhibit B; (3) Exhibit C; (4) Proof of Service) (Valdez, Geraldine). Modified on 8/7/2008 (McGrew, J.). (Entered: 08/06/2008)
08/06/2008	534	Receipt of Notice of Appeal(04-90392-LA) [appeal,97] (255.00) Filing Fee. Fee Amount 255.00 Receipt number 3458191. (U.S. Treasury) (Entered: 08/06/2008)
08/07/2008	● <u>535</u>	Association of Counsel filed by Geraldine A. Valdez on behalf of Martha Diaz. (Attachments: # <u>1</u> Proof of Service) (Valdez, Geraldine) (Entered: 08/07/2008)
08/07/2008	● <u>536</u>	Opposition <i>BY PLAINTIFF KISMET ACQUISITION LLC TO EMERGENCY MOTION OF DEFENDANTS MARTHA BARBA AND ALEJANDRO DIAZ-BARBA FOR STAY OF JUDGMENT PENDING APPEAL</i> (related documents <u>532</u> Generic Application or Motion,) filed by Ali M.M. Mojdehi of Baker & McKenzie on behalf of Kismet Acquisition, LLC. (Attachments: # <u>1</u> Exhibit A) (Mojdehi, Ali) (Entered: 08/07/2008)
08/07/2008	● <u>537</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>536</u> Opposition,) (Mojdehi, Ali) (Entered: 08/07/2008)
08/07/2008	● <u>538</u>	Election for Appeal to be Heard by District Court. BK Appeal No. 2. (related documents <u>533</u> Notice of Appeal) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali). Modified on 8/7/2008 (McGrew, J.). (Entered: 08/07/2008)
08/07/2008	● <u>539</u>	Proof of Service filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (related documents <u>538</u> Election for Appeal to be Heard by District Court) (Mojdehi, Ali) (Entered: 08/07/2008)
08/07/2008	● <u>540</u>	Order NOT APPROVED on Emergency Motion for Martha De La Torre and Alejandro Diaz-Barba for Stay of Judgment pending Appeal (Related Doc # <u>532</u>) signed on 8/7/2008. (related documents <u>532</u> Generic Application or Motion,) (Duran, K.) (Entered: 08/08/2008)

08/07/2008	541	Certificate of Mailing on ORDER: I hereby certify that a copy of the Order was mailed this date to the Debtor(s), the Attorney for Debtor(s), if any, Movant, and the Trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>540</u> Generic Order re: Application) (Duran, K.) (Entered: 08/08/2008)
08/07/2008	542	Alternate Order NOT APPROVED on Emergency Motion of Martha De La Torre and Alejandro Diaz-Barba for stay of Judgment pending Appeal (Related Doc # <u>532</u>) signed on 8/7/2008. (related documents <u>532</u> Generic Application or Motion,) (Duran, K.) (Entered: 08/08/2008)
08/07/2008	543	Certificate of Mailing on ORDER: I hereby certify that a copy of the Order was mailed this date to the Debtor(s), the Attorney for Debtor(s), if any, Movant, and the Trustee at their respective addresses as the same appear in the records of this case. Barry K. Lander, Clerk (related documents <u>542</u> Generic Order re: Application) (Duran, K.) (Entered: 08/08/2008)
08/08/2008	544	Notice of Referral of Appeal to the U.S. District Court with service of Notice of Appeal. BK Appeal No. 2. (Attachments: # <u>1</u> Transmittal Memorandum) (related documents <u>533</u> Notice of Appeal) (McGrew, J.) (Entered: 08/08/2008)
08/08/2008	545	Letter to the Bankruptcy Appellate Panel. (related documents <u>540</u> Generic Order re: Application, <u>542</u> Generic Order re: Application) filed by Ali M.M. Mojdehi on behalf of Kismet Acquisition, LLC. (Mojdehi, Ali) (Entered: 08/08/2008)